

## OAK RIDGE CITY COUNCIL MEETING

Municipal Building Courtroom

November 14, 2011—7:00 p.m.

### AGENDA

#### I. INVOCATION

Reverend Jeremy Songer of LifeHouse Church

#### II. PLEDGE OF ALLEGIANCE

#### III. ROLL CALL

#### IV. APPEARANCE OF CITIZENS

#### V. PROCLAMATIONS AND PUBLIC RECOGNITIONS

Presentation of three (3) Four Star Awards to individuals and the City recognized by the Tennessee Recreation and Parks Association (TRPA) for Excellence in Recreation and Parks.

Swearing-in of City Clerk Diana R. Stanley

#### VI. SPECIAL REPORTS

Oak Ridge Heritage Railroad Authority Annual Report 2011 from Gordon Fee, Chairman of the Board of Directors.

#### VII. CONSENT AGENDA

- a. Approval of the minutes of the October 10, 2011 City Council Meeting.
- b. Adoption of a resolution to accept an enforcement initiative grant from the State of Tennessee, Department of Transportation, Governor's Highway Safety Office, in the amount of \$24,977.40 to be used for authorized traffic enforcement and/or training purposes.
- c. Adoption of a resolution supporting the establishment of a committee to research the development of a Consolidated Emergency Communications Center for Anderson County, Tennessee.

#### VIII. RESOLUTIONS

- a. Adoption of a resolution approving the Tennessee Oversight Interlocal Agreement between the City of Oak Ridge and the following counties: Anderson, Knox, Loudon, Meigs, Morgan, Rhea and Roane.
- b. Adoption of a resolution to rescind Resolution 10-98-11 which opposed the Local Oversight Committee's (LOC) dissolution until such time as a new organization structure has been defined, a new inter-local agreement has been negotiated and approved by council and the governing bodies of the other involved jurisdictions, and a new grant agreement with the State of Tennessee has been negotiated; and further prohibiting the Mayor or the Mayor's alternate from voting for dissolution of the LOC until such time as these conditions are met.
- c. Adoption of a resolution awarding a bid in the estimated amount of \$33,320.30 to Ruffin and Associates, Memphis, Tennessee, for the furnishing of 3 phase spacer cable system.

- d. Adoption of a resolution awarding a bid in the estimated amount of \$186,762.40 to Stuart C. Irby Company, Johnson City, Tennessee, for the furnishing of underground power cable.
- e. Adoption of a resolution authorizing the City to enter into a contract with the State of Tennessee Department of Transportation for the resurfacing of designated city streets utilizing approximately \$1,203,365.00 of the City's allocated surface transportation program funds to be matched with approximately \$300,841.00 in city funds.
- f. Adoption of a resolution authorizing the purchase of a hydraulic excavator from CMI Equipment Sales, Inc., Nashville, Tennessee, in the estimated amount of \$333,015.00.
- f. Adoption of a resolution to adopt a debt management policy as required by the Tennessee State Funding Board.
- g. Adoption of a resolution approving a settlement in the amount of \$44,000.00 with Carolina Transformer Contribution Action Plaintiffs.
- h. Adoption of a resolution to adopt the *Not in Our City* conceptual plan to address drugs and crime, improve housing, and make Oak Ridge a better place to live and invest.
- i. Adoption of a resolution to adopt an additional initiative – the Residential Properties Utility Program – as part of the *Not in Our City* conceptual plan.

IX. PUBLIC HEARINGS AND FIRST READING OF ORDINANCES

- a. AN ORDINANCE TO AMEND A USE RESTRICTION REGARDING FAST FOOD RESTAURANTS IN WOODLAND TOWN CENTER PLANNED UNIT DEVELOPMENT PLAN, WHICH FRONTS ON SOUTH ILLINOIS AVENUE AND BACKS UP TO SOUTH PURDUE AVENUE BISECTED BY QUINCY DRIVE ACROSS FROM THE FORMER DEAN STALLINGS FORD SITE, WITH NO CHANGE TO THE ZONING DISTRICT WHICH REMAINS UB-2/PUD, UNIFIED GENERAL BUSINESS WITH A PLANNED UNIT DEVELOPMENT DISTRICT OVERLAY.

(Official Public Hearing to occur during the Second Reading of the Ordinance.)

- b. AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCEL 1.09, ROANE COUNTY TAX MAP 30, ALSO KNOWN AS ED-4B, LOCATED AT HERITAGE CENTER, FROM F.I.R., FEDERAL INDUSTRY AND RESEARCH TO IND-2, INDUSTRIAL.

(Official Public Hearing to occur during the Second Reading of the Ordinance.)

- c. AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCELS 10.06 AND 10.07, ROANE COUNTY TAX MAP 29, ALSO KNOWN AS K-792 AREA, LOCATED AT HERITAGE CENTER, FROM F.I.R., FEDERAL INDUSTRY AND RESEARCH TO IND-2, INDUSTRIAL MANHATTAN DISTRICT OVERLAY (IND-2/IMDO).

(Official Public Hearing to occur during the Second Reading of the Ordinance.)

X. FINAL ADOPTION OF ORDINANCES

Second Reading of Ordinance

- a. AN ORDINANCE TO AMEND TITLE 3, TITLED "MUNICIPAL COURT," CHAPTER 4, TITLED "COURT ADMINISTRATION," SECTION 3-406, TITLED "COST ESTABLISHED," SUBSECTION (A), TITLED "CITY COURT CLERK FEE," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY INCREASING THE CITY COURT CLERK FEE TO EIGHTY-ONE DOLLARS AND TWENTY-FIVE CENTS (\$81.25).

Public Hearings and Second Reading of Ordinances

- b. AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCELS 1.04, 1.17, AND 1.18, ROANE COUNTY TAX MAP 30, ALSO KNOWN AS BUILDING K-1225, ED-9A, AND ED-9B, LOCATED AT HERITAGE CENTER, FROM F.I.R., FEDERAL INDUSTRY AND RESEARCH TO IND-2, INDUSTRIAL MANHATTAN DISTRICT OVERLAY (IND-2/IMDO).
- c. AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," ARTICLE IX, TITLED "SPECIAL DISTRICTS," BY DELETING SECTION 9.07, TITLED "FLOODPLAIN REGULATIONS," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW SECTION 9.07, TITLED, "FLOODPLAIN REGULATIONS," TO UPDATE THE PROVISIONS FOR COMPLIANCE WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA) CURRENT REQUIREMENTS, TO MINIMIZE DANGER TO LIFE AND PROPERTY DUE TO FLOODING, AND TO MAINTAIN THE CITY'S ELIGIBILITY FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM.
- d. AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF AN APPROXIMATE FIFTY-FOOT-WIDE STRIP CROSSING PARCELS 8.00, 9.00, 10.00, AND 12.00, ANDERSON COUNTY TAX MAP 100G, GROUP A, LOCATED ALONG THE SOUTH SIDE OF EMORY VALLEY ROAD FROM FRANKLIN ROAD HEADING EAST TO THE WEST BOUNDARY OF 707 EMORY VALLEY ROAD, THENCE HEADING SOUTH ALONG THE BOUNDARY LINE ENDING AT THE RIGHT-OF-WAY OF FAIRBANKS ROAD, FROM RG-1, RESIDENTIAL, OPEN SPACE AND RESERVED TO IND-1, INDUSTRIAL.
- e. AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE THE CITY OF OAK RIDGE, TENNESSEE, BY AMENDING SECTION 3.18, TITLED "TEMPORARY USE PERMITS," SUBSECTION (D)(3) TO CLARIFY THAT SALES ARE PERMITTED IN PAVED PARKING AREAS PROVIDED IT DOES NOT INTERFERE WITH VEHICULAR CIRCULATION ON THE SITE; SECTION 13.01, TITLED "INTRODUCTION," SUBSECTION (A) TO ADD THAT SITE PLAN APPROVAL EXPIRES ONE YEAR FROM THE FINAL APPROVAL DATE; SECTION 13.02, TITLED "DESIGN REVIEW STANDARDS," SUBSECTIONS (D)(1), (E)(2), AND (H)(2) TO EXPAND THE APPLICABLE ZONES; SECTION 13.02, TITLED "DESIGN REVIEW STANDARDS," SUBSECTION (E)(3) TO PLACE A REQUIREMENT ON TREE PLANTING IN ISLANDS AND TO PLACE A PAVEMENT DISTANCE FROM REAR AND SIDE LOT LINES; SECTION 13.02, TITLED "DESIGN REVIEW STANDARDS," SUBSECTIONS (F)(2) TO REQUIRE SHRUB ROWS TO BE

PLANTED TO SCREEN A PARKING LOT THAT CAN BE VIEWED FROM A PRIVATE STREET AND NOT JUST A PUBLIC STREET; SECTION 13.02, TITLED “DESIGN REVIEW STANDARDS,” SUBSECTION (F)(4)(A)(4) TO EXPAND THE APPLICABLE ZONES AND TO REQUIRE THE MAINTENANCE BOND TO BE POSTED FOR TWO YEARS INSTEAD OF ONE IF A PERMANENT IRRIGATION SYSTEM HAS NOT BEEN INSTALLED; SECTION 14.05, TITLED “GENERAL REQUIREMENTS,” PART (4) TO INCLUDE SCHOOLS AND CHURCHES AS A BUSINESS THAT CAN BE ISSUED A TEMPORARY PERMIT AND TO LIMIT THE NUMBER OF PERMITS TO ONE DURING ANY THREE MONTH PERIOD INSTEAD OF ONE DURING ANY FOUR MONTH PERIOD; SECTION 14.06, TITLED “SIGNS ALLOWED IN ALL DISTRICTS (EXEMPT SIGNS),” PART (8) TO INCLUDE AUCTION SIGNS; AND SECTION 16.12, TITLED “USES REQUIRING PLANNING COMMISSION APPROVAL,” SUBSECTION (A) TO CORRECT THE REFERENCE TO THE OAK RIDGE MUNICIPAL PLANNING COMMISSION.

XI. ELECTIONS/APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

a. Elections/Appointments

Updated Notice of Elections for vacant positions on the Boards and Commissions.

b. Announcements

c. Scheduling

XII. COUNCIL REQUESTS FOR NEW BUSINESS ITEMS OR FUTURE BRIEFINGS

XIII. SUMMARY OF CURRENT EVENTS

a. City Manager’s Report

b. City Attorney’s Report

c. Public Works Director Report

Public Works Winter Operations-Salt Brine Report from Public Works Director Gary Cinder.

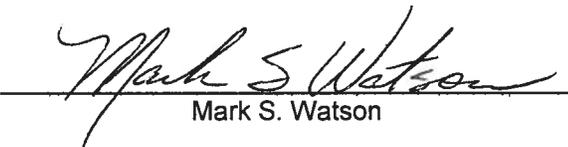
XIV. ADJOURNMENT

**PROCLAMATIONS  
AND  
PUBLIC RECOGNITIONS**

**CITY COUNCIL MEMORANDUM**  
**11-45**

DATE: November 7, 2011  
TO: Honorable Mayor and Members of City Council  
FROM: Mark S. Watson, City Manager  
SUBJECT: PUBLIC RECOGNITIONS

An item for the November 14, 2011 agenda is the presentation of three Four Star Awards to individuals and the City recognized by the Tennessee Recreation and Parks Association for Excellence in Recreation and Parks.

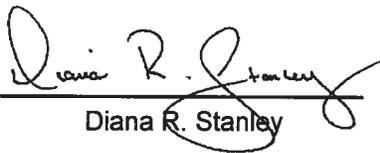
  
Mark S. Watson

**CITY CLERK MEMORANDUM**

**11-53**

**DATE:** October 10, 2011  
**TO:** Honorable Mayor and Members of City Council  
**FROM:** Diana R. Stanley, Acting City Clerk  
**SUBJECT:** SWEARING-IN OF CITY CLERK

An item for the November 14, 2011 agenda is the swearing-in of City Clerk, Diana R. Stanley.

  
Diana R. Stanley

# **SPECIAL REPORTS**



Oak Ridge  
Heritage Railroad Authority

P. O. Box 5163

Oak Ridge, TN 37831-5163

Phone: 865.220.4264

Fax: 865.483.3218

November 3, 2011

Mayor Tom Beehan  
City of Oak Ridge  
P.O. Box 1  
Oak Ridge, TN 37831-0001

Subject: Oak Ridge – Heritage Railroad Authority Annual Report 2011  
(Covers from July 1, 2010 to June 30, 2011)

Dear Mayor Beehan:

The Oak Ridge – Heritage Railroad Authority is pleased to submit its 2010/2011 Annual Report to City Council in accordance with Council's resolution and State Law. The Authority was created on November 2, 2001, for the purpose of helping assure the economic future of the Heritage Railroad by seeking to obtain State funds for track and bridge maintenance and rehabilitation. Working in tandem, the Authority and Heritage Railroad Corporation (HRC) continue to make significant upgrades and improvements consistent with the State's long-range plans for its rail transportation network. To date, the Authority has obtained nearly \$1.88M in upgrades and improvements.

Heritage Railroad continues to serve as a key element of Heritage Center's transportation infrastructure deemed critical to the long term success of the Heritage Center Industrial Park (formerly the East Tennessee Technology Park (ETTP)), and the future growth and development of the City's West end. The 11.5-mile Heritage Railroad is owned by Heritage Railroad Corporation (HRC), which is a wholly owned subsidiary of EnergySolutions. The land on which the railroad is constructed is leased from the Department of Energy. HRC contracts for the actual operations and maintenance of the railroad with Walden's Ridge Railway Corporation.

As you know, the August 20, 2001 Council resolution creating the Authority prohibits the use or obligation of City funds. To date, CROET or EnergySolutions has provided all financial and administrative support not otherwise obtained from grant funds.

The Authority consists of two members: myself as its Chairman, and Dr. Pete Craven, who serves as its Secretary/Treasurer. Mr. Troy Eshleman, Executive Manager of Heritage Railroad Corporation, serves as the Authority's elected Chief Executive Officer (non-voting) and coordinates the Authority's administrative support. Mr. Ken Krushenski, City Attorney, has attended all meetings of the Authority to ensure it complies with the enabling statute and applicable protocols as an instrumentality of the City of Oak Ridge. The Authority obtains technical engineering support for its activities under a contract with Crouch Engineering located in Brentwood, Tennessee. All compensation for engineering support is funded out of State grants.

Pursuant to its charter, the Authority continues to direct its efforts in performing requisite tasks to qualify for funding from the Tennessee Department of Transportation (TDOT) under its Track and Bridge Rehabilitation Program. A history of the Authority's appropriations received from the State of Tennessee to date is shown in the following Table:

<b>Appropriations Received From State of Tennessee</b>				
<b>Fiscal Year</b>	<b>Engineering</b>	<b>Bridge Upgrade</b>	<b>Track Upgrade</b>	<b>Total Allocation</b>
2002/2003	\$ 44,981.00	\$ 54,942.00	\$ 191,004.00	\$ 290,927.00
2003/2004	\$ 25,915.00	\$ 60,896.00	\$ 191,004.00	\$ 277,815.00
2004/2005	\$ 24,293.00	\$ 48,454.00	\$ 197,721.00	\$ 270,468.00
2005/2006	\$ 19,328.00	\$ 50,661.00	\$ 97,788.00	\$ 167,777.00
2006/2007	\$ 20,197.00	\$ 49,374.00	\$ 119,635.00	\$ 189,207.00
2007/2008	\$ 20,197.00	\$ 49,374.00	\$ 119,635.00	\$ 189,206.00
2008/2009	\$ 20,197.00	\$ 49,374.00	\$ 119,635.00	\$ 189,206.00
2009/2010	\$ 19,576.00	\$ 52,291.84	\$ 103,176.20	\$ 175,044.04
2010/2011	\$ 25,842.00	\$ 37,368.00	\$ 105,084.00	\$ 168,294.00
<b>Total</b>	<b>\$ 220,526.00</b>	<b>\$ 452,734.84</b>	<b>\$ 1,244,682.20</b>	<b>\$ 1,917,944.04</b>

The TDOT Track and Bridge Rehabilitation Programs have a 10 percent match requirement of all projects requested by Heritage Railroad, and the 10 percent matching requirement must be made during the TDOT contract year. All matching funds for TDOT allocations received to date have been provided by the operating company EnergySolutions or its predecessor company CROET. By accepting TDOT funds, the Authority is agreeing that Heritage Railroad Corporation will provide rail service for a period of no less than five years subsequent to receipt of funds.

In order to qualify for State appropriations, the Authority must contract for an annual inspection of all bridges on the line and submit a report on the findings to TDOT. The most recent inspection was completed on March 25, 2011, and findings showed that all bridges are in good or fair condition except the Bridge 3 backwalls and the paint on Bridge 4 which are in poor condition. The bridge 3 project maintenance is planned for calendar year 2012.

During the period covered by this report, R&D, Inc. was awarded a contract from the 2009/2010 funds to re-surface, grade and align the rail between Milepost 3.7 and 4.2. In mid-2011, Bundrick Grading and Construction was awarded a similar Track Rehabilitation project funded out of the FY2010/2011 grant. This project involves rehabilitation of track from Milepost 3.0 to 3.7 and is ongoing at the time of this report.

The Bridge Rehabilitation Grant has not been allocated to a contract at this time. As in the past, the Grant allocation will be consolidated over a 2-3 year period to perform rehabilitation on bridges on the Heritage Railroad.

In determining how to expend the State appropriated funds, the Authority takes into consideration the recommendations of Heritage Railroad Corporation and the projected rail traffic over various sections of the line. We believe the State funds, coupled with the matching monies provided by Heritage Railroad Corporation, have made it possible to maintain safe and reliable rail services to the Heritage Center Site and thereby should assist in attracting new tenants.

Each year the State of Tennessee requires an audit of all grant funds, the audit for the 2009/2010 period was received on October 15, 2010. There were no findings by the auditors. A copy of the audit report was provided to the City and the State. The audit for the 2010/2011 period is delayed due to a prolonged illness and absence of the assigned auditor. The audit is on the docket to be completed; however it is not scheduled to be complete until December 2011.

Compared to the previous year, traffic on the Railroad showed a 6% increase (820 cars in 2010 versus 779 cars in 2009). The historical average is 738 cars per year. The primary customers on the railroad continued to be Southern Appalachian Railroad Museum, EnergySolutions, East Tennessee Rail Car Services, Impact Services, and Olin Chemical.

We would be happy to provide any additional information you might require.

Sincerely,



Gordon Fee  
Chairman

cc: Pete Craven, Secretary/Treasurer  
Harvey Crouch, Crouch Engineering  
Troy Eshleman, Chief Executive Officer  
Ken Krushenski, Oak Ridge City Attorney  
Mark Watson, Oak Ridge City Manager

# CONSENT AGENDA

**MINUTES OF THE  
OAK RIDGE CITY COUNCIL MEETING**

**October 10, 2011**

The regular meeting of the City Council of the City of Oak Ridge, Tennessee, convened at 7:00 p.m. on October 10, 2011 in the Courtroom of the Municipal Building with Mayor Thomas L. Beehan presiding.

**INVOCATION**

The Invocation was given by Reverend Curtis McClane, Highland View Church of Christ.

**PLEDGE OF ALLEGIANCE**

Dr. Gene Caldwell led the Pledge of Allegiance to the Flag of the United States of America.

**ROLL CALL**

Upon roll call, the following members of Council were present: Mayor Thomas Beehan; Anne Garcia Garland; L. Charles Hensley; Charles J. Hope, Jr.; D. Jane Miller; David N. Mosby; and Ellen D. Smith.

Also present were Mark S. Watson, City Manager; Kenneth R. Krushenski, City Attorney; Steven W. Jenkins, Deputy City Manager; and Diana R. Stanley, Acting City Clerk.

**APPEARANCE OF CITIZENS**

Mr. Andy Marathe, 121 Westlook Circle, commented on the current members of City Council and described them as dysfunctional and ineffective. He expressed concern over City Council addressing taxes, the debt level, housing issues, city spending and specifically referenced the National Park Service project.

Following Mr. Marathe's comments, Mayor Beehan asked City Manager Mark Watson to discuss the National Park Service project. Mr. Watson discussed that the City has a partnership with Hanford, Washington and Las Alamos, New Mexico to recognize the City's history and involvement with the Manhattan Project. Mr. Watson further elaborated that this partnership and designation would involve a visitor or interpretive center and that there are discussions as to the location of a center. He mentioned the Library expansion project and how having a library jointly connected with a visitor/interpretive center might offset costs as well as serve a multitude of purposes.

Mr. LeRoy Gilliam, 108 Tracy Lane, wished to publicly thank the local Wal-Mart for re-stripping the parking lot and adding wheelchair accessibilities to their store in an effort to adhere to recent laws and guidelines for accessibility standards. Mr. Gilliam asked that City and the Police Department follow-up with businesses to make sure those Oak Ridge establishments are adhering to ADA standards.

**PROCLAMATIONS**

**A proclamation designating the month of October 2011 as Fraud and Financial Abuse Awareness Month.**

Councilmember Smith moved, seconded by Councilmember Hensley, that the proclamation be adopted. The motion carried by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting "Aye." The proclamation was presented to Elizabeth Batchelor of the Anderson County Adult Safety Coalition and Elder Watch.

## **SPECIAL REPORTS**

**Presentation to City Council from six (6) City Board and Commission Representatives to provide information to the public about the structure, purpose, and achievements of their boards to generate interest in the end of year elections.**

The following chairs provided an overview of the history, structure, current members, membership, meetings, community involvement, and duties:

Personnel Advisory Board	Mary Frances Tolliver, Chair
Board of Building and Housing Code Appeals	Bruce Ryan LeForce, Chair
Highland View Redevelopment	Mayor Tom Beehan, Chair
Oak Ridge Municipal Planning Commission	Terry C. Domm, Chair
Traffic Safety Advisory Board	Phil Wallace, Co-Chair
Board of Zoning Appeals	Judith L. Mason, Chair

Judith L. Osucha, Chair of the Oak Ridge Housing Authority, was scheduled as part of the agenda, but was not in attendance.

## **CONSENT AGENDA**

Councilmember Smith made a motion requesting to amend the agenda by adding an additional item under “Resolutions” (item e.), titled “A resolution in opposition of the Local Oversight Committee’s (LOC) dissolution until such time as a new organization structure has been defined, a new inter-local agreement has been negotiated and approved by Council and the governing bodies of the other involved jurisdictions, and a new grant agreement with the State of Tennessee has been negotiated; and further prohibiting the Mayor or the Mayor’s alternate from voting for dissolution of the LOC until such time as these conditions are met.” The motion was seconded by Councilmember Garcia Garland.

The motion was approved by board vote with Councilmembers Garcia Garland, Hope, Mosby, and Smith voting “Aye” and Councilmember Hensley, Miller, and Mayor Beehan voting “Nay.”

Councilmember Mosby asked to remove item (c.) titled, “Adoption of a resolution authorizing the purchase of 4,000 feet of water pipe from Southern Pipe & Supply Co., Inc., Knoxville, Tennessee, for the replacement of the water main from the Robertsville Road Pump Station to West Outer Drive in the estimated amount of \$178,159.50.”

Councilmember Smith asked to remove item (b.) titled, “Adoption of a resolution to adopt the Updated 2011 Anderson County Multi-Jurisdictional Hazard Mitigation Plan in accordance with federal requirements.”

The minutes of the September 12, 2011 City Council Meeting were approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting “Aye.”

## **RESOLUTIONS REMOVED FROM THE CONSENT AGENDA**

### **Resolution No. 10-92-11**

**Adoption of a resolution to adopt the Updated 2011 Anderson County Multi-Jurisdictional Hazard Mitigation Plan in accordance with federal requirements.**

Councilmember Smith moved, seconded by Councilmember Miller, that the resolution be adopted. Following inquires by Councilmember Smith, Fire Chief Darryl Kerley explained that this was a long-range

strategic plan that outlines goals that are obtainable in the future provided funding is available. The Fire Chief also discussed that many of the items in the plan that immediately affect the community have services already in place and that projects in the plan came from all sources in an effort to eliminate all hazards in the community. Fire Chief Kerley commented that Anderson County Emergency Management Association prepared the plan and that former Fire Chief Mack Bailey participated in the preparation. Councilmember Mosby inquired to any potential liability of the plan and the City Manager explained that the plan does not expose the City to any more liability as it is an All Hazard Mitigation Plan that outlines goals for potential situations.

The resolution was adopted by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting “Aye.”

#### **Resolution No. 10-93-11**

**A resolution authorizing the purchase of 4,000 feet of water pipe from Southern Pipe & Supply Co., Inc., Knoxville, Tennessee, for the replacement of the water main from the Robertsville Road Pump Station to West Outer Drive in the estimated amount of \$178,159.50.**

Councilmember Smith moved, seconded by Councilmember Hensley, that the resolution be adopted. Public Works Director, Gary Cinder answered Councilmember Mosby’s question regarding the pipe diameter change by explaining that the older pipe is obsolete and that 16” diameter is now the industry standard. Mr. Cinder further explained that the location of the new pipe will exist over the exact easement of the original.

The resolution was adopted by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting “Aye.”

#### **RESOLUTIONS**

A public hearing and a resolution authorizing the City to apply for a Tennessee Department of Transportation Enhancement Grant in the amount of \$1,000,000.00, with a twenty percent (20%) local cash match to support either the revitalization of Jackson Square (Option A) or the implementation of the Oak Ridge Bicycle and Pedestrian Plan on Lafayette Drive and Scarboro Road (Option B), and to accept said grant if approved.

Mayor Beehan called on the City Manager for explanation of the process and grant. The City Manager explained that the TDOT grant funds were for transportation related projects and that Jackson Square parking lot improvements have been a project of interest by Council and is also an initiative of the community. The City Manager clarified that City Council’s task was to conduct a public hearing on the two (2) listed projects or any other project brought forward and decide if enough information was available to adopt one (1) of the two (2) resolutions for the grant. Mr. Watson further explained that if Council decided that more information was needed, a special meeting of City Council would be held on October 25, 2011 to adhere to the November 1, 2011 deadline for the grant.

Following Mayor Beehan’s inquiry regarding staff’s recommendation, Mr. Watson started by discussing Jackson Square and the number of studies that have been conducted, particularly the last year such as the Environmental Protection Agency and MBA students from the University of Tennessee. The City Manager explained that if awarded the grant, the \$200,000 required match would be funded by a re-prioritization of capital that would not occur next fiscal year. He also noted that there have been preliminary discussions with TDOT and this plan has been revealed to be a strong project for the competitive grant.

The City Manager went on to discuss the Bicycle and Pedestrian Plan and how there was a missing link in the plan that was the Lafayette section. Mr. Watson indicated that there are options for funding to be pursued for implementation of this project and that there is potential for CMAQ (Congestion Mitigation and

Air Quality Improvement) funding as an eligible source. Mr. Watson briefly explained about the potential of the CSX Line being transferred to the City for the *Rails to Trails* project putting Lafayette and CSX in a category of a bigger project.

Mr. Watson added that the Bicycle and Pedestrian Plan was not quite as ready as the Jackson Square project, but he wanted to provide choices and allow Council to hear comments from the public. He further noted that Jackson Square had the potential for return on investments to the City by sales tax generated through new, potential businesses. Mr. Watson also added that Bicycle and Pedestrian Plan is fairly new and the grant has the momentum to assist with the missing link of the plan.

Mayor Beehan added that he had an understanding that grants become more competitive if they have an economic impact, and the City Manager confirmed that was his understanding as well.

Councilmember Hensley commented that comparing Jackson Square (with the area's support, studies, and public involvement) to the Bicycle Pedestrian Plan was not a consistent comparison and he was not sure why the Bicycle Pedestrian Plan was on the agenda. Councilmember Hensley explained that he intended to postpone the Bicycle Pedestrian Plan on first reading until staff had more time to develop a better plan and gather information about the CSX potential.

Councilmember Hope clarified with the City Manager that this enhancement grant could include Central Avenue and other areas and is an overlay of a larger area.

Councilmember Mosby commented that he wanted to ensure that a focused discussion on the allowable expenses for the grant takes place.

Mayor Beehan opened the meeting for the public hearing for the TDOT Grant:

The following citizens presented remarks in support of the revitalization of Jackson Square.

Mr. Mark Harvey, 101 Park Meade Drive  
Mr. Austin Lance, 138 Center Park Lane  
Mr. Tony Cappiello, 110 South Illinois Avenue  
Mr. Bill Tewes, 304 E. Forest Road  
Mr. David Bradshaw, 116 Pratt Lane  
Mr. Parker Hardy, President of the Oak Ridge Chamber of Commerce  
Mr. Bill Wilcox, 412 New York Avenue  
Mr. Joe Lee, 99 East Pasadena Road  
Mr. Waldek Kaczocho, 107 Wesley Lane  
Ms. Trina Baughn, 119 Newport Drive  
Ms. Katy Brown, 121 Newhaven Road  
Ms. Tory Fowler, business owner at 221 Jackson Square  
Ms. Becky Peterson, 171 Northwestern Avenue  
Ms. Kathy Edwards, 12 Asbury Lane  
Mr. Ray Smith, 127 Newell Lane  
Ms. Jane Hayden, Ridge Handicraft Jackson Square  
Mr. Mitchell Fowler, business owner at 221 Jackson Square  
Ms. Jane Bigestoff, 152 Newport Drive, member of Artist Co-op in Jackson Square

Other speakers were:

Mr. Andy Marathe, 121 Westlook Circle, expressed concerns over the \$200,000 match fund for taxpayers and that the Jackson Square merchants and developers should come up with the match first.

Mr. Charlie Devine, 258 Iroquois Road, thinks it is a preposterous idea to spend a million dollar transportation grant on a parking lot that works. Mr. Devine commented that he likes the current fountain adjacent to Jackson Square and does not believe that anything is wrong with the current parking lot.

Ms. Mary Ann Hardy, 2506 Oliver Springs Highway, Oliver Springs, representing Oak Ridge Playhouse as President addressed Mr. Bill Tewes' concerns about the development, particularly with regards to accessibility, by explaining that the drawings were tentative and the ramp is accessible and compliant and that similar issues have been addressed to the committee.

Ms. Becky Gabbard, 181 Whippoorwill, Garden Chairman of the Oak Ridge Garden Club communicated that her organization had landscaping plans for the area and would like to know what the plan is for the development and be included in the project for landscaping purposes.

Mayor Beehan requested a motion to close the public hearing that was made by Councilmember Hensley and seconded by Councilmember Miller with a unanimous voice vote of Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

Councilmember Hensley made a motion to approve the Jackson Square Project, seconded by Councilmember Miller.

Councilmember Smith commented that the first priority for Jackson Square is to ensure that it is competitive. She further explained that she believes the public's perception is that this grant is a retail enhancement grant instead of a transportation enhancement grant. Ms. Smith expressed concern about the Jackson Square project following TDOT guidelines, saying that guidelines include eligible projects like the Bicycle and Pedestrian Plan. She went on to discuss elements of Jackson Square that would be bicycle and pedestrian-related, as well as provided examples for what TDOT considers to be transportation enhancements. Ms. Smith wanted to ensure that all elements submitted for Jackson Square are fundable under the program. She noted that she favored discussion of the proposals at a special meeting, and that she had concerns over the lack of publicity that the Bicycle Pedestrian Plan had received.

Mayor Beehan commented that he was pleased that someone championed for Jackson Square and was not surprised by the public's interest. The Mayor stressed the importance of the return on investment factor of the Jackson Square Project, which made it competitive and favorable to the State. The Mayor emphasized that he would like to proceed with the grant under the guidance of TDOT.

Councilmember Hensley commented that there is a great deal of public knowledge and unity about this project and he does not want it to be delayed by excessive evaluation. Mr. Hensley concluded by saying that he strongly supports the Jackson Square Project.

In response to Councilmember Garcia Garland's inquiries, City Manager Mark Watson explained that some staff time would be needed for the plan if awarded the grant. He further discussed that certain elements of the grant cannot be accounted for, but to his knowledge there would be no additional efforts required by the City. He noted that this plan had not been presented to the Planning Commission, as it was part of a larger plan.

Councilmember Garcia Garland commented that a public hearing and its details should be properly publicized and that the Bicycle Pedestrian Plan had not met this standard. She also opined that support for the Jackson Square Project was centralized to the Jackson Square area. Ms. Garcia Garland discussed that she was reluctant to commit the \$200,000 match at this time, and would like to have been shown information about which city projects would have been substituted to accommodate the grant match.

In response to Councilmember Mosby's inquiry concerning the time frame and sacrifices in the Capital Plan, Mr. Watson replied that allocation could begin on July 1, 2012, and that the City is currently planning capital funds. Mr. Watson further indicated that details would be forthcoming once the grant has been awarded.

Councilmember Hope inquired as to the total estimates for the grant and the feasibility of using the funds for other phases of redevelopment. The City Manager explained that the City's cost would not exceed \$200,000, and that he has seen funds used for other city projects elsewhere, but was unsure if there had been any changes in the use of leftover funds.

Councilmembers Hensley, Hope, Miller and Mayor Beehan call called for the question.

The motion was approved by board vote with Councilmembers Hensley, Hope, Miller, and Mosby voting "Aye," Councilmember Garcia Garland voting "Nay," and Councilmember Smith abstained.

The resolution passed therefore approving:

**Resolution No. 10-94-11**

**A public hearing and resolution authorizing the City to apply for a Tennessee Department of Transportation Enhancement Grant in the amount of \$1,000,000.00, with a twenty percent (20%) local cash match, to support the revitalization of Jackson Square, and to accept said grant if approved.**

**Resolution No. 10-95-11**

**A resolution authorizing an expenditure of \$50,000.00 from the Economic Diversification Fund to provide sponsorship to the 2012 Secret City Festival.**

Councilmember Hensley moved, seconded by Councilmember Hope, that the resolution be adopted.

Councilmember Hope requested to have the Secret City Festival Committee provide updates to City Council regarding the development of the festival. Councilmember Garcia Garland suggested setting aside fund balances in advance for two years to book entertainment further along to help offset costs.

The resolution was adopted by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

**Resolution No. 10-96-11**

**A resolution authorizing a professional services agreement with the Arts Council of Oak Ridge to provide entertainment, production support, activities and programs related to the upcoming 2012 Secret City Festival and authorizing the reimbursement of actual costs incurred in an amount not to exceed \$150,000.00.**

Councilmember Hensley moved, seconded by Councilmember Miller, that the resolution be adopted. On inquiry by Councilmember Garcia Garland, the City Manager explained that this contract was not bided because it resembles a cash-flow situation where the money is used for large contracts associated with the Secret City Festival such as the entertainment and the WWII Reenactment. The resolution was adopted by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

**Resolution No. 10-97-11**

**A resolution to extend the employee medical insurance contract between the City of Oak Ridge and the State of Tennessee Local Government Health Insurance Program for the period of January 1, 2012 through December 31, 2012 at an estimated cost of \$3,875,000.00.**

Councilmember Smith moved, seconded by Councilmember Miller, that the resolution be adopted. The City Manager explained that the City had been anticipating a nominal increase and will incorporate that increase into the remaining year and next year's budget. The resolution was adopted by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

**Resolution No. 10-98-11**

**A resolution in opposition of the Local Oversight Committee's (LOC) dissolution until such time as a new organization structure has been defined, a new inter-local agreement has been negotiated and approved by Council and the governing bodies of the other involved jurisdictions, and a new grant agreement with the State of Tennessee has been negotiated; and further prohibiting the Mayor or the Mayor's alternate from voting for dissolution of the LOC until such time as these conditions are met.**

Councilmember Garcia Garland moved, seconded by Councilmember Smith, that the resolution be adopted.

Mayor Beehan provided an overview of the LOC by explaining that the Mayors of the affected Counties and the City were in the process of hiring an attorney to help transition the LOC from a 501(c)(3) to a interlocal agreement for various reasons, including concerns over the business of a 501(c)(3), changes in the Charter that were not reported to City Council, quorum concerns, a lack of audits and the concern of liability to its members, and the absence of Errors & Omissions Insurance. He also expressed concern regarding the resolutions' lateness. Mayor Beehan explained that the Mayor and an alternate serve on the LOC, a similar practice with many other boards. The Mayor spoke of his concern about the resolution setting a precedent of not allowing the Mayor or alternate to vote without City Council's consultation. When Mayor Beehan asked the City Attorney's opinion regarding the precedent, Mr. Krushenski commented that, during his employment, there have been no situations where a voting individual has returned to City Council to confirm a vote, and in his opinion, this practice could set a precedent. Additionally, he commented that the LOC is an independent group that can vote to dissolve if they please.

Councilmember Smith stated that she was committed to the LOC and was actively engaged with the organization. She expressed concerns over funding and liability, the Mayors' involvement, and the sudden attempt to dissolve the organization. Ms. Smith remarked that she wanted to bring the resolution to City Council for discussion, and clarified that the reason for the lateness of the resolution was that the Committee had yet to approve minutes from a previous meeting where the Mayors voted for a resolution to transition the LOC. Committee members requested to not have that meeting until the Mayors could meet and establish a new agreement. A special called meeting regarding its dissolution was then scheduled for Thursday and that is the reason for the resolution being submitted on Friday.

Councilmember Smith explained that if there was a vote for an orderly transition then, in her opinion, the corporation is not terminated before the new corporation structure is determined. She pointed out that the new corporation would need to communicate with the State to determine if the new organization is in line to the State's Tennessee Oversight Agreement as the contract is specific to LOC and cannot be transferred to another entity. Councilmember Smith clarified that she is asking that Oak Ridge's voting member not vote to terminate the organization in this fashion.

Councilmember Hensley expressed concern about the lack of contact by the LOC on the reorganization of the Department of Energy (DOE) which, at the time, was a big event, but that the LOC took a stand on the German waste situation even though it did not involve DOE.

Mayor Beehan commented that he believes that these issues needed to be brought up to the Committee.

Councilmember Smith responded to Councilmember Hensley by explaining that the LOC did not enjoy participation from elected officials, and according to the organization's bylaws, several committee

members should have been removed due to lack of participation. She indicated that some of the things in the newspaper regarding the German waste were in a different context. In regards to the DOE reorganization, Ms. Smith explained that the LOC was questioning whether it was still going to exist.

Councilmember Garcia Garland commented she has confidence in Councilmember Smith's interpretation as she does not have much experience with this organization. She commented that she was distressed over the Mayors' decision to dissolve the LOC, and did not believe that it was in the spirit of open government. Councilmember Garcia Garland added that City Council can instruct the Mayor over what can or cannot be signed, and she believes it is an appropriate resolution.

Mr. Norman Mulvenon, 118 Concord Road, explained that he has worked with the LOC for over 15 years and is the Chair of the Citizens Advisory Panel. Mr. Mulvenon commented that the organization's mission is to look at DOE and surrounding issues that result from DOE. He continued by commenting that the Site Specific Advisory Board (SSAB) does not have the Charter to do this. He added that the organization's headquarters does not allow them deviate from the mission. Mr. Mulvenon closed by saying that he supports Councilmember Smith's resolution.

Ms. Elizabeth Peelle, City of Oak Ridge activist and Oak Ridge National Laboratory employee, commented that she was concerned by the actions of the new Mayors. Ms. Peelle explained that much of the work that was done was to help explain to the state and county what was going on at Oak Ridge and to help set up safeguards so that people might be encouraged to move to Oak Ridge. She explained that the LOC has learned about safety from past events, such as the Blue Ribbon Committee and the MRS Commission in the 1980s. Ms. Peelle added that an environment was needed that allows those who move to Oak Ridge to know that citizens are aware of issues and have some independent oversight. She commented that the LOC is indispensable as there is no other organization charged to make an independent review of DOE's activities.

Mr. Ron Murphy, resident of Knoxville and Chairman of the SSAB, explained that there are some activities of the LOC that are duplicated by the SSAB, but that the Charter of the SSAB is narrowly constructed and kept on task by Washington, D.C. Mr. Murphy added that the LOC has a broader charter and can examine other activities for which SSAB is not empowered. He commented that any organization that enhances stakeholder input to the workings of DOE is a good thing, and if there is more than one organization then it should not be viewed in a negative manner.

Susan Gawarecki, Executive Director of the LOC, discussed her position on the LOC. She explained that she has worked hard to make it a reputable organization and provided comments from a perspective that best benefits local governments and communities. Ms. Gawarecki expressed that this time period has been difficult. She also briefly discussed the course of the LOC over the last few months, and commented that the 501(c)(3) issues could have been accommodated with Officers and Directors Insurance. Ms. Gawarecki could not understand the interest of several of the Mayors in dissolving the LOC until she learned that the funding of the grant could go to the various districts for emergency management training. Ms. Gawarecki wanted to correct one perception regarding an audit; she revealed that the organization was audited annually until the grant funding fell below the amount required for audits. She also expressed her disappointment about the Mayors not keeping staff informed of their intentions.

Councilmember Mosby expressed confusion over his interpretation of the resolution. Councilmember Smith provided an overview for Councilmember Mosby about the membership of the LOC by explaining that the Committee has eleven members and the City has two members: one from the City (Council) and the second from the Environmental Quality Advisory Board (EQAB). Councilmember Mosby acknowledged his understanding that the resolution only prevents the City vote, but that the other members could vote to dissolve the Committee.

Councilmember Hensley inquired about the organization's funding and its ability to stay in place, assuming that the State would fund the program. Mayor Beehan explained that an interlocal agreement would constitute the continuation of the service to local governments. Councilmember Smith reviewed the resolution and added that the group could still dissolve even if resolution is approved, and clarified that it would not constrain how Council representatives would vote in other situations. Councilmember Smith responded to Councilmember Hensley's inquiry about funding for the existing organization by explaining that the Committee is currently funded, and that there is funding until such time as the new organization is in place. She concluded with an explanation that unspent, budgeted money would go back to the State.

City Manager Watson explained the agreement between DOE and the State of Tennessee has been executed. As part of that execution, part of that allocation will return locally whether it is the LOC or a future organization.

Mayor Beehan referenced the City Attorney's opinion about setting a precedent that votes would have to come back to City Council before casting vote. Councilmember Smith said that her perception is that entering into an agreement with other communities is something that Council must approve and so is dissolving an agreement.

The City Attorney cautioned that this could set a precedent, but if Council wishes to have items brought back to Council as a whole then Council could vote to do that. Councilmember Garcia Garland commented that she disagrees with the precedent discussion as she believes that City Council has the right to direct the position on behalf of the City in which the Councilmembers are representing the City.

Councilmembers Miller, Hope, Hensley, and Mayor Beehan called the question.

The motion was approved by board vote with Councilmembers Garcia Garland, Hensley, Mosby, and Smith voting "Aye" and Councilmembers Hope, Miller, and Mayor Beehan voting "Nay."

## **PUBLIC HEARING AND FIRST READING OF ORDINANCES**

### First Reading of Ordinance

AN ORDINANCE TO AMEND TITLE 3, TITLED "MUNICIPAL COURT," CHAPTER 4, TITLED "COURT ADMINISTRATION," SECTION 3-406, TITLED "COST ESTABLISHED," SUBSECTION (A), TITLED "CITY COURT CLERK FEE," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY INCREASING THE CITY COURT CLERK FEE TO EIGHTY-ONE DOLLARS AND TWENTY-FIVE CENTS (\$81.25).

Councilmember Smith moved that the ordinance be approved on first reading. The motion was seconded by Councilmember Hope and was approved on first reading by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

### Public Hearings and First Reading of Ordinances

A public hearing was held on the following:

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCELS 1.04, 1.17, AND 1.18, ROANE COUNTY TAX MAP 30, ALSO KNOWN AS BUILDING K-1225, ED-9A, AND ED-9B, LOCATED AT HERITAGE CENTER, FROM F.I.R., FEDERAL INDUSTRY AND RESEARCH TO IND-2, INDUSTRIAL MANHATTAN DISTRICT OVERLAY (IND-2/IMDO).

There were no citizen comments.

Councilmember Smith moved that the ordinance be approved on first reading. The motion was seconded by Councilmember Hensley and was approved on first reading by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

A public hearing was held on the following:

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," ARTICLE IX, TITLED "SPECIAL DISTRICTS," BY DELETING SECTION 9.07, TITLED "FLOODPLAIN REGULATIONS," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW SECTION 9.07, TITLED, "FLOODPLAIN REGULATIONS," TO UPDATE THE PROVISIONS FOR COMPLIANCE WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA) CURRENT REQUIREMENTS, TO MINIMIZE DANGER TO LIFE AND PROPERTY DUE TO FLOODING, AND TO MAINTAIN THE CITY'S ELIGIBILITY FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM.

There were no citizen comments.

Councilmember Hope moved that the ordinance be approved on first reading. The motion was seconded by Councilmember Smith and after brief explanation from the City Manager the ordinance was approved on first reading by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

A public hearing was held on the following:

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF AN APPROXIMATE FIFTY-FOOT-WIDE STRIP CROSSING PARCELS 8.00, 9.00, 10.00, AND 12.00, ANDERSON COUNTY TAX MAP 100G, GROUP A, LOCATED ALONG THE SOUTH SIDE OF EMORY VALLEY ROAD FROM FRANKLIN ROAD HEADING EAST TO THE WEST BOUNDARY OF 707 EMORY VALLEY ROAD, THENCE HEADING SOUTH ALONG THE BOUNDARY LINE ENDING AT THE RIGHT-OF-WAY OF FAIRBANKS ROAD, FROM RG-1, RESIDENTIAL, OPEN SPACE AND RESERVED TO IND-1, INDUSTRIAL.

There were no citizen comments.

Councilmember Hope moved that the ordinance be approved on first reading. The motion was seconded by Councilmember Smith and after brief explanation from Community Development Kathryn Baldwin the ordinance was approved on first reading by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

A public hearing was held on the following:

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE THE CITY OF OAK RIDGE, TENNESSEE, BY AMENDING SECTION 3.18, TITLED "TEMPORARY USE PERMITS," SUBSECTION (D)(3) TO CLARIFY THAT SALES ARE PERMITTED IN PAVED PARKING AREAS PROVIDED IT DOES NOT INTERFERE WITH VEHICULAR CIRCULATION ON THE SITE; SECTION 13.01, TITLED "INTRODUCTION," SUBSECTION (A) TO ADD THAT SITE PLAN APPROVAL EXPIRES ONE YEAR FROM THE FINAL APPROVAL DATE; SECTION 13.02, TITLED "DESIGN REVIEW STANDARDS," SUBSECTIONS (D)(1), (E)(2), AND (H)(2) TO EXPAND THE APPLICABLE ZONES; SECTION 13.02, TITLED "DESIGN REVIEW STANDARDS," SUBSECTION (E)(3) TO PLACE

A REQUIREMENT ON TREE PLANTING IN ISLANDS AND TO PLACE A PAVEMENT DISTANCE FROM REAR AND SIDE LOT LINES; SECTION 13.02, TITLED “DESIGN REVIEW STANDARDS,” SUBSECTIONS (F)(2) TO REQUIRE SHRUB ROWS TO BE PLANTED TO SCREEN A PARKING LOT THAT CAN BE VIEWED FROM A PRIVATE STREET AND NOT JUST A PUBLIC STREET; SECTION 13.02, TITLED “DESIGN REVIEW STANDARDS,” SUBSECTION (F)(4)(A)(4) TO EXPAND THE APPLICABLE ZONES AND TO REQUIRE THE MAINTENANCE BOND TO BE POSTED FOR TWO YEARS INSTEAD OF ONE IF A PERMANENT IRRIGATION SYSTEM HAS NOT BEEN INSTALLED; SECTION 14.05, TITLED “GENERAL REQUIREMENTS,” PART (4) TO INCLUDE SCHOOLS AND CHURCHES AS A BUSINESS THAT CAN BE ISSUED A TEMPORARY PERMIT AND TO LIMIT THE NUMBER OF PERMITS TO ONE DURING ANY THREE MONTH PERIOD INSTEAD OF ONE DURING ANY FOUR MONTH PERIOD; SECTION 14.06, TITLED “SIGNS ALLOWED IN ALL DISTRICTS (EXEMPT SIGNS),” PART (8) TO INCLUDE AUCTION SIGNS; AND SECTION 16.12, TITLED “USES REQUIRING PLANNING COMMISSION APPROVAL,” SUBSECTION (A) TO CORRECT THE REFERENCE TO THE OAK RIDGE MUNICIPAL PLANNING COMMISSION.

There were no citizen comments.

Councilmember Hope moved, seconded by Councilmember Miller that the ordinance be approved on first reading. Community Development Kathryn Baldwin explained that the zoning amendments are typically saved till end of year and these amendments were housekeeping in nature. The ordinance was approved on first reading by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Miller, Mosby, Smith, and Mayor Beehan voting “Aye.”

#### **FINAL ADOPTION OF ORDINANCES**

(NONE)

#### **ELECTIONS/APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING**

##### Elections / Appointments

##### **Notice of Elections for the end of year boards and commissions.**

The City Manager referred to the Notice of Elections and commented that the opened positions that will begin at the first of the year.

##### Announcements

(NONE)

##### Scheduling

(NONE)

#### **COUNCIL REQUESTS FOR NEW BUSINESS ITEMS OR FUTURE BRIEFINGS**

Mayor Beehan reported about the PlanET Kickoff on October 11, 2011 at Market Square in Knoxville, Tennessee and the public hearing on October 13, 2011 at the New Hope Center. The Mayor also discussed the Canberra business investment announcement in Oak Ridge that took place on October 11, 2011.

Councilmember Garcia Garland requested to include on the agenda for the next work session, a preliminary discussion on forming a citizen’s police review board and to discuss the public relations campaign for the end of year election of board members.

Councilmember Mosby revealed the route for the Community Bike Week on November 5, 2011 and provided an update on the logistical planning for the event.

Councilmember Hope commented on having information provided during a work session to Council about a possible plan for the Secret City Festival becoming self-sustaining.

Councilmember Hensley commented about combining studies already performed and incorporating them into a visioning plan.

Councilmember Smith commented about addressing the debt policy at an upcoming work session. Watson replied that it is scheduled for October 24, 2011 Work Session

### **SUMMARY OF CURRENT EVENTS**

#### **City Manager's Report**

The City Manager reported that the City had received communication from EPA from regarding west end water/wastewater infrastructure project funding being reduced by approximately \$145,000.00. Mr. Watson explained that he and Gary Cinder, Public Works Director, are exploring other options for funding.

Mr. Watson also reported on his upcoming ICMA travel to Mexico City with Mayor Beehan. The City Manager explained that the organization was intrigued with the Mayor's background in Council-Manager form of government and that they are representing cities of moderate sizes.

#### **City Attorney's Report**

(NONE)

### **ADJOURNMENT**

The meeting adjourned at 10:50 p.m.

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Diana R. Stanley, Acting City Clerk

POLICE DEPARTMENT MEMORANDUM  
11-05

DATE: November 1, 2011  
TO: Mark S. Watson, City Manager  
FROM: James T. Akagi, Police Chief  
SUBJECT: GOVERNOR'S HIGHWAY SAFETY GRANT

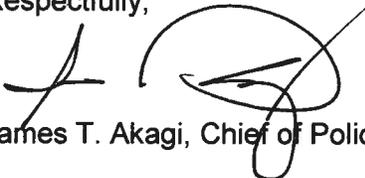
An item for the agenda is a resolution approving a grant contract with the State of Tennessee, Department of Transportation, Governor's Highway Safety Office, in the amount of \$24,977.40.

The City's Police Department has been the recipient of grant funds from the Governor's Highway Safety Office for many years. This year, the Police Department has been notified by the State that it is eligible to receive a \$24,977.40 grant. The grant contract specifies the purposes for which the grant funds may be used: traffic enforcement initiatives to reduce speeding, aggressive driving, driving under the influence, and/or non-seat belt usage for children and passengers; high visibility highway safety campaigns; and/or for use in specialized training programs such as accident investigation and radar training.

Grants funds do not require a local match.

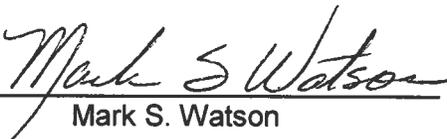
Staff recommends approval of the attached resolution.

Respectfully,

  
James T. Akagi, Chief of Police

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson  
11/8/11  
Date

**RESOLUTION**

A RESOLUTION TO ACCEPT AN ENFORCEMENT INITIATIVE GRANT FROM THE STATE OF TENNESSEE, DEPARTMENT OF TRANSPORTATION, GOVERNOR'S HIGHWAY SAFETY OFFICE, IN THE AMOUNT OF \$24,977.40 TO BE USED FOR AUTHORIZED TRAFFIC ENFORCEMENT AND/OR TRAINING PURPOSES.

WHEREAS, grant monies are available from the State of Tennessee, Department of Transportation, Governor's Highway Safety Office; and

WHEREAS, the City is eligible to receive a \$24,977.40 grant to be used for traffic enforcement initiatives to reduce speeding, aggressive driving, driving under the influence, and/or non-seat belt usage for children and passengers; high visibility highway safety campaigns; and/or for use in specialized training programs such as accident investigation and radar training; and

WHEREAS, said grant requires no matching funds; and

WHEREAS, the City Manager recommends acceptance of the grant.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the City is hereby authorized to accept an enforcement initiative grant from the State of Tennessee, Department of Transportation, Governor's Highway Safety Office, in the amount of \$24,977.40 to be used for authorized traffic enforcement and/or training purposes.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

**CITY COUNCIL MEMORANDUM  
11-47**

DATE: November 9, 2011

TO: Honorable Mayor and Members of City Council

FROM: Mark S. Watson, City Manager

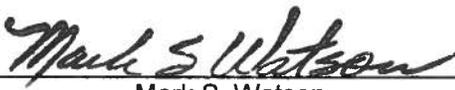
SUBJECT: SUPPORT OF A COMMITTEE TO RESEARCH DEVELOPMENT OF A  
CONSOLIDATED EMERGENCY COMMUNICATIONS CENTER FOR ANDERSON  
COUNTY

An item on the November 14, 2011 agenda is a resolution supporting the establishment of a committee to research the development of a consolidated Emergency Communications Center for Anderson County.

The attached letter from Anderson County identifies a strong desire to study further cost efficiencies in public safety in Anderson County. One option is that of a communications center consolidation. Anderson County now has three (3) 911 dispatch centers: Anderson County, Oak Ridge, and Oliver Springs. The County has asked for an expression of support from Oak Ridge to participate in a study committee for this feasibility study. Given long-term costs of dispatching personnel and capital equipment upgrades, Oak Ridge should participate in this effort.

The City Manager shall ask the Police Chief and the Fire Chief or their designees to participate in this effort and report back to the City Manager and the City Council on their progress.

Staff recommends approval of the attached resolution.

  
\_\_\_\_\_  
Mark S. Watson

Attachments



# ANDERSON COUNTY

MYRON IWANSKI  
COUNTY MAYOR

RECEIVED

2011 OCT 24 AM 9:10

CITY MANAGER'S OFFICE

October 20, 2011

Mayor Tom Beehan  
City of Oak Ridge  
Municipal Building  
200 South Tulane Ave.  
Oak Ridge, Tn. 37830

Dear Mayor Tom Beehan,

As we have discussed with representatives of each of our cities at recent E-911 Board meetings, we would like to work with our cities to examine consolidating our emergency dispatch in Anderson County.

Attached is a resolution prepared by the County E-911 Board and approved unanimously by County Commission this week supporting establishment of a committee to research the development of a consolidated Emergency Communications Center for Anderson County.

We would like each city to pass a similar resolution supporting this consolidation study. We are not seeking a commitment to consolidate or for a commitment of funds at this time. However, we would like each city to commit staff time to participating on a committee to research this proposal over the next several months. We would ask that you identify one or two individuals you will assign to be member of this committee. We have been in contact with CTAS and the State E-911 Board and they are willing to provide technical support in this effort.

If you would let us know when this will be taken up by your City Council, I or Nathan Sweet, the County EMS Director, will be there to answer questions regarding this consolidation study. Please call me at 865-719-3718 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Myron Iwanski".

Myron Iwanski  
Anderson County Mayor

cc City Manager, Mark S. Watson

**RESOLUTION**

A RESOLUTION SUPPORTING THE ESTABLISHMENT OF A COMMITTEE TO RESEARCH THE DEVELOPMENT OF A CONSOLIDATED EMERGENCY COMMUNICATIONS CENTER FOR ANDERSON COUNTY, TENNESSEE.

WHEREAS, pursuant to Tennessee Code Annotated §7-86-105(b)(7), it is the public policy of Tennessee to encourage the consolidation of emergency communications operations in order to provide the best possible technology and service to all areas of the state in the most economical and efficient manner possible; and

WHEREAS, Anderson County has requested the City of Oak Ridge to support the establishment of a committee to research the development of a Consolidated Emergency Communications Center for all of Anderson County, Tennessee; and

WHEREAS, the objective of this committee is to develop a plan for implementing a Consolidated Emergency Communications Center for each municipality and public safety or public service agency that operates within Anderson County, Tennessee; and

WHEREAS, no decisions or changes to each established communications center will be conducted by this committee as it is being developed to pre-plan and present recommendations for a Consolidated Emergency Communications Center; and

WHEREAS, the City of Oak Ridge has established an Oak Ridge Emergency Communication District serving the residents of Oak Ridge and should consolidation with Anderson County be recommended in the future, the City as a whole would merge into the Consolidated Emergency Communications Center; and

WHEREAS, this committee will report any and all recommendations to the Anderson County Emergency Communications District Board of Directors at regularly scheduled meetings or special called meetings if the Board so chooses.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the City Council of Oak Ridge, Tennessee, duly convened and acting in its official capacity, does hereby support the efforts of this committee in researching and pre-planning a model for the Consolidated Emergency Communications Center to provide a more efficient approach to Anderson County Emergency Communications, emphasizing a seamless communications center and maximizing all resources used to conduct emergency communications.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute all necessary legal documents to accomplish the same.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

# RESOLUTIONS

MAYOR'S MEMORADNUM  
11-01

DATE: November 7, 2011

TO: Fellow Members of City Council

FROM: Mayor Tom Beehan

SUBJECT: RESOLUTION TO ADOPT AN INTERLOCAL AGREEMENT BETWEEN THE COUNTIES OF ANDERSON, KNOX, LOUDON, MEIGS, MORGAN, RHEA, AND ROANE, ALONG WITH THE CITY OF OAK RIDGE TO COOPERATE ON ISSUES RELATED TO THE U.S. DEPARTMENT OF ENERGY'S ENVIRONMENTAL MANAGEMENT PROGRAM AND EMERGENCY MANAGEMENT ACTIVITIES

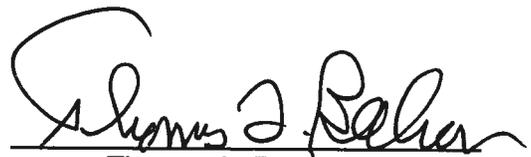
An item for the November 14th City Council meeting is the adoption of the attached resolution authorizing the City to enter into an interlocal agreement to communicate and cooperate on issues related to the Tennessee Oversight Agreement (TOA). The TOA was established between the U.S. Department of Energy (DOE) and the State of Tennessee (State) in 1991 to assure the citizens of Tennessee that their health, safety, and environment are being protected by DOE.

Attached is a communication dated October 19, 2011 from Roane County Executive Ron Woody requesting the City's consideration of the interlocal agreement.

A typographical error in Section V (Administration), which was mentioned at the October 24<sup>th</sup> City Council work session, has been corrected. This item was clarified to state "Assist with meeting logistics and distribution of materials." The corrected version has been distributed by Mr. Woody's office to the affected local governments.

As noted in the agreement, each jurisdiction reserves to the right to pursue its own interests, and may withdraw from the agreement by providing written notification to the parties.

I recommend adoption of the resolution.

  
Thomas L. Beehan

Attachments

October 19, 2011

LOC Board Mayors/Executives

**SUBJECT: Interlocal Agreement DOE/TDEC/Local Government**

Dear Mayors/Executives:

Upon the newly elected County Mayors/Executives, and Oak Ridge City Manager and Mayor taking office and reviewing and working with the Local Oversight Committee (LOC), it was determined that the existing LOC 501(c)(3) should transition into an Interlocal Agreement. The LOC Board voted September 9, 2011 in a resolution to begin a transition into another organization.

On October 14, 2011 the County Mayors/Executives and City of Oak Ridge Mayor approved recommending to those respective local governments the attached Resolution/Interlocal Agreement. This letter is being written to request your local government's consideration of entering into an Interlocal Agreement with the other local government jurisdictions listed in the resolution.

In mid-November the respective Mayors/Executives will convene a meeting and determine which governments have agreed to be parties to the Interlocal Agreement. You should consider filing the attached Resolution/Interlocal Agreement for your "legislative body's" consideration.

For information purposes:

- In the early 90's the LOC was formed as a 501(c)(3) encompassing the governments of Anderson, Meigs, Rhea, and Roane and the City of Oak Ridge.
- Since then the LOC has expanded to represented Knox, Loudon and Morgan Counties
- On September 9, 2011 the Board approved the transition of the LOC from 501(c)(3) to an Interlocal Agreement.
- On October 14, 2011 the County Mayors/Executives and the Oak Ridge City Mayor voted to recommend to the respective governments an Interlocal Agreement.
- LOC shall consider allowing this 501(c)(3) to be converted to another non-profit with a citizen board instead of local government officials.
- An Interlocal Agreement will be formed to administer the DOE/TDEC oversight grant funds.

LOC Board Mayors/Executives  
October 19, 2011  
Page Two

Roane County Commission's procedure is to adopt a resolution which attaches the Agreement. Attached is a copy of Roane County's Resolution with the Interlocal Agreement attached.

Sincerely,

Ronald B. Woody  
Roane County Executive

RBW:sl

cc: LOC Board Members/Alternates  
LOC Citizens' Advisory Panel  
Oak Ridge Environmental Quality Advisory Board  
LOC Staff

## **TENNESSEE OVERSIGHT INTERLOCAL AGREEMENT**

### **Between the Counties of Anderson, Knox, Loudon, Meigs, Morgan, Rhea, Roane along with the City of Oak Ridge to Cooperate on Issues Related to the U.S. Department of Energy's Environmental Management Program and Emergency Management Activities**

**WHEREAS**, the Tennessee Oversight Agreement (TOA) was established between the State of Tennessee (State) and the U.S. Department of Energy (DOE) in May 1991 to assure the citizens of Tennessee that their health, safety and environment are being protected by DOE; and

**WHEREAS**, the Tennessee Oversight Agreement has been renewed for the period July 1, 2011 through June 30, 2016; and

**WHEREAS**, the TOA states that the DOE and the State commit to maintaining a direct and open relationship with local governments, and that affected local governments will have direct access to Tennessee and DOE officials on a regular basis; and

**WHEREAS**, the affected local governments for the purpose of TOA implementation are the counties of Anderson, Knox, Loudon, Meigs, Morgan, Rhea, Roane, and the City of Oak Ridge; and

**WHEREAS**, although each jurisdiction fully reserves the right to pursue its own interests, through communication, cooperation, and joint utilization of resources, the Mayors and County Executive of the affected local governments desire to meet on a regular basis regarding DOE or State activities requiring local government action or participation pursuant to the TOA.

#### **I. PURPOSE**

This **Interlocal Agreement** is established among the affected local government jurisdictions for the purpose of implementing the Tennessee Oversight Agreement. The objective of the Interlocal Agreement is to provide:

- A. A mechanism for ongoing review and study of DOE's current and planned environmental program at the Oak Ridge Reservation (ORR)
- B. A forum for local governments and citizens to communicate about environmental issues and public concerns related to the Oak Ridge Reservation
- C. A forum to enhance emergency management planning and training related to the ORR
- D. Position statements, as needed, pertaining to policies, projects, issues and studies related to the ORR

II. **PARTIES TO THE AGREEMENT**

The Parties to the Agreement shall be the local governments most directly affected by the implementation of the Tennessee Oversight Agreement. These are: (1) Anderson County; (2) Knox County; (3) Loudon County; (4) Meigs County; (5) Morgan County; (6) Rhea County; (7) Roane County; and (8) the City of Oak Ridge.

III. **ORGANIZATION**

**A. Board of Mayors/Executive**

Upon the execution of this agreement, a Board of Mayors/Executive is herein created (Board). This Board consist of the Mayors of each affected local governments and the Roane County Executive.

**B. Officers**

There shall be a Chairperson and Vice-Chairperson elected from among the Board to serve one-year terms effective January 1 of each year.

IV. **OPERATION**

- A. The Board shall meet annually to approve a budget and work program for the coming year, and at least once per quarter thereafter, and at other times as needed. Meetings shall be open to the public.
- B. The Board shall take recommendations and establish agenda items from their respective local government jurisdictions, including Environmental Review Boards and the public.
- C. Work with TEMA, DOE, and other agencies and local government jurisdictions on emergency management preparedness.
- D. The Board may establish subcommittees from time to time to study and report on issues.
- E. Each Board Member has an equal vote on all issues. Each Board Member shall be entitled to appoint a proxy as needed in the event of his/her absence at a meeting.

V. **ADMINISTRATION**

**The Board shall appoint a Fiscal Agent (FA), which shall be a governmental entity. The FA shall:**

- A. Receive a normal and customary fee of One (1%) percent of revenue (Trustee's commission);

- B. Receive, distribute, and report financial activities related to the grant to the parties, state and public;
- C. Disburse funds under the direction of an annual budget and/or approval of the expenditures by the Agreed Parties;
- D. Be an ad hoc secretary to the parties by preparing and maintaining all minutes of the Advisory Board;
- E. Assist with meeting logistics and distribution of materials.

VI. **DURATION OF THE AGREEMENT**

This agreement shall be effective when signed by the participating jurisdictions and shall continue through June 30, 2016. The term of this agreement may be extended thereafter with the written approval of the participating jurisdictions.

VII. **AMENDMENT**

This Agreement may be amended by a majority vote of the Board.

VIII. **WITHDRAWAL**

At any time a local government jurisdiction may withdraw from this agreement by providing written notification to the parties.

This Interlocal Agreement is signed by the Agreed Parties this the \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Anderson County Mayor

\_\_\_\_\_  
Knox County Mayor

\_\_\_\_\_  
Loudon County Mayor

\_\_\_\_\_  
Meigs County Mayor

\_\_\_\_\_  
Morgan County Executive

\_\_\_\_\_  
Rhea County Executive

\_\_\_\_\_  
Roane County Executive

\_\_\_\_\_  
City of Oak Ridge Mayor

**RESOLUTION**

A RESOLUTION APPROVING THE TENNESSEE OVERSIGHT INTERLOCAL AGREEMENT BETWEEN THE CITY OF OAK RIDGE AND THE FOLLOWING COUNTIES: ANDERSON, KNOX, LOUDON, MEIGS, MORGAN, RHEA AND ROANE.

WHEREAS, the Tennessee Oversight Agreement was established between the State of Tennessee and the U.S. Department of Energy (DOE) in May 1991 to assure the citizens of Tennessee that their health, safety and environment are being protected by DOE; and

WHEREAS, the Tennessee Oversight Agreement has been renewed for the period July 1, 2011 through June 30, 2016; and

WHEREAS, the Tennessee Oversight Agreement states that DOE and the State commit to maintaining a direct and open relationship with local governments, and that affected local governments will have direct access to Tennessee and DOE officials on a regular basis; and

WHEREAS, the affected local governments for the purpose of implementation of the Tennessee Oversight Agreement are the counties of Anderson, Knox, Loudon, Meigs, Morgan, Rhea, and Roane, and the City of Oak Ridge; and

WHEREAS, although each jurisdiction fully reserves the right to pursue its own interests through communication, cooperation, and joint utilization of resources, the Mayors and County Executive of the affected local governments desire to meet on a regular basis regarding DOE and/or State activities requiring local government action or participation pursuant to the Tennessee Oversight Agreement; and

WHEREAS, a Tennessee Oversight Interlocal Agreement has been developed by the Mayors and County Executive of the affected local governments for the purpose of implementing the local government provisions of the Tennessee Oversight Agreement .

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the attached Tennessee Oversight Interlocal Agreement established for the purpose of implementing the local government provisions of the Tennessee Oversight Agreement is hereby approved by the City Council of the City of Oak Ridge, Tennessee.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to enter into the appropriate legal instruments to accomplish the same.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:

  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

**CITY COUNCIL MEMORANDUM**  
**11-46**

DATE: November 9, 2011  
TO: Honorable Mayor and Members of City Council  
FROM: Mark S. Watson, City Manager  
SUBJECT: RESCISSION OF RESOLUTION NO. 10-98-11

Councilman Charlie Hensley has indicated, via email, his intention to request reconsideration of Council's approval of Resolution No. 10-98-11 concerning the Local Oversight Committee's dissolution. A review of the 10<sup>th</sup> Edition of *Robert's Rules of Order* reveals a motion to reconsider is no longer timely; however, Councilman Hensley's intended action can still be obtained through a motion to rescind Resolution No. 10-98-11.

A resolution to rescind Resolution No. 10-98-11 is attached for Council's consideration. A majority vote of Council is required to approve this resolution.

  
Mark S. Watson

Attachments

## Stanley, Diana

---

**From:** Watson, Mark  
**Sent:** Tuesday, November 08, 2011 3:03 PM  
**To:** Stanley, Diana  
**Subject:** FW: Reconsideration of LOC restriction

-----Original Message-----

**From:** Charlie Hensley [<mailto:chuck188@comcast.net>]  
**Sent:** Wednesday, November 02, 2011 3:12 PM  
**To:** Watson, Mark; Krushenski, Ken  
**Subject:** Reconsideration of LOC restriction

Mr. Watson:

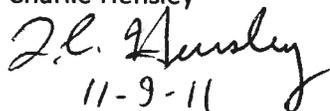
This note is to verify my request by phone yesterday. As stated, I plan to move for reconsideration of the action by Council relative to the resolution concerning the LOC presented by Councilwoman Smith at the October meeting. Therefore, I request this possible action be included in the meeting agenda for November 7. My planned motion will require a second to allow a vote to take place and will require a majority vote for passage. A motion to rescind the previous action would require a 2/3 vote.

Ms. Smith's resolution would then be voted on again pending discussion, if any, by Council.

Mr. Krushenski, please verify my interpretation of Roberts Rules.

Sincerely,

Charlie Hensley

  
11-9-11

**RESOLUTION**

A RESOLUTION IN OPPOSITION OF THE LOCAL OVERSIGHT COMMITTEE'S (LOC) DISSOLUTION UNTIL SUCH TIME AS A NEW ORGANIZATION STRUCTURE HAS BEEN DEFINED, A NEW INTER-LOCAL AGREEMENT HAS BEEN NEGOTIATED AND APPROVED BY COUNCIL AND THE GOVERNING BODIES OF THE OTHER INVOLVED JURISDICTIONS, AND A NEW GRANT AGREEMENT WITH THE STATE OF TENNESSEE HAS BEEN NEGOTIATED; AND FURTHER PROHIBITING THE MAYOR OR THE MAYOR'S ALTERNATE FROM VOTING FOR DISSOLUTION OF THE LOC UNTIL SUCH TIME AS THESE CONDITIONS ARE MET.

WHEREAS, the Local Oversight Committee (LOC) is a non-profit regional organization representing the interests of local governments and their citizens with respect to U.S. Department of Energy (DOE) environmental decisions on the Oak Ridge Reservation (ORR), formed in 1991 when the State of Tennessee entered into an oversight agreement with DOE to independently monitor ORR environmental restoration and waste management activities; and

WHEREAS, DOE environmental decisions and activities on the ORR are a matter of vital interest to the City of Oak Ridge and its citizens; and

WHEREAS, the structure and governance of the LOC was determined in the early 1990s by agreement among elected officials of the City of Oak Ridge and four nearby counties and the organization is currently governed by a board consisting of the mayors, or their alternates, of the City of Oak Ridge and seven nearby counties, plus the chairs of the LOC Citizens' Advisory Panel (CAP), Oak Ridge Environmental Quality Advisory Board (EQAB), and Roane County Environmental Review Board (RCERB); and

WHEREAS, members of the Oak Ridge City Council have been actively involved with the direction of the LOC since its inception, with the Mayor or the Mayor's alternate serving as the board's chairman for all but a brief period in the organization's 20-year history; and

WHEREAS, a number of Oak Ridge citizen volunteers have given freely of their time, energy, and technical expertise as members of the LOC's CAP, which also includes citizen volunteers from neighboring jurisdictions; and

WHEREAS, the LOC operates with grant funding provided through a contract with the State of Tennessee to carry on its work and represent local concerns and interests to DOE, the U.S. Environmental Protection Agency, and the State of Tennessee; and

WHEREAS, knowledgeable observers respect the quality and independence of the LOC's work, have said the organization offers the only independent, technically capable review of what DOE is doing in the Oak Ridge area, and have urged the continuation of its volunteer citizen review function; and

WHEREAS the City of Oak Ridge and the other local governments do not have the resources to duplicate the capabilities provided by the LOC; and

WHEREAS, on September 9, 2011, the LOC board passed a resolution calling for the organization to transition from its current nonprofit structure to an entity under a government fiscal agent and for the mayors of the involved jurisdictions to form a new inter-local agreement outlining the roles and responsibilities of the fiscal agent along with the new approach of local oversight of DOE operations; and

WHEREAS, the mayors of two counties have called for a special meeting to be held October 14, 2011, to designate a government to serve as fiscal agent and immediately dissolve the LOC without first establishing a new inter-local agreement or negotiating a new grant agreement with the State of Tennessee; and

WHEREAS, an interruption of activity and funding would not be in the best interests of the citizens of City of Oak Ridge and the surrounding communities.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

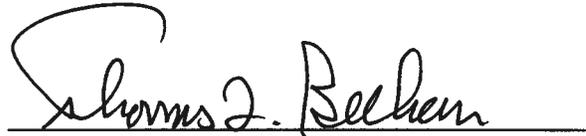
That the Local Oversight Committee (LOC) should not be dissolved until such time as a new organization structure has been defined, a new inter-local agreement has been negotiated and approved by this City Council and the governing bodies of the other involved jurisdictions, and a new grant agreement with the State of Tennessee has been negotiated.

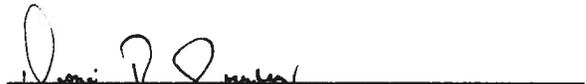
BE IT FURTHER RESOLVED that neither the Mayor nor the Mayor's alternate is authorized to vote for the dissolution of the LOC until such time as these conditions are met.

This the 10th day of October 2011.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

  
\_\_\_\_\_  
Thomas L. Beehan, Mayor

  
\_\_\_\_\_  
Diana R. Stanley, Acting City Clerk

**RESOLUTION**

A RESOLUTION TO RESCIND RESOLUTION 10-98-11 WHICH OPPOSED THE LOCAL OVERSIGHT COMMITTEE'S (LOC) DISSOLUTION UNTIL SUCH TIME AS A NEW ORGANIZATION STRUCTURE HAS BEEN DEFINED, A NEW INTER-LOCAL AGREEMENT HAS BEEN NEGOTIATED AND APPROVED BY COUNCIL AND THE GOVERNING BODIES OF THE OTHER INVOLVED JURISDICTIONS, AND A NEW GRANT AGREEMENT WITH THE STATE OF TENNESSEE HAS BEEN NEGOTIATED; AND FURTHER PROHIBITING THE MAYOR OR THE MAYOR'S ALTERNATE FROM VOTING FOR DISSOLUTION OF THE LOC UNTIL SUCH TIME AS THESE CONDITIONS ARE MET.

WHEREAS, by Resolution 10-98-11, City Council opposed the dissolution of the Local Oversight Committee (LOC) until such time as a new organization structure has been defined, a new inter-local agreement has been negotiated and approved by City Council and the governing bodies of the other involved jurisdictions, and a new grant agreement with the State of Tennessee has been negotiated; and

WHEREAS, Resolution 10-98-11 further prohibited the Mayor, or the Mayor's alternate, from voting for dissolution of the LOC until such time as those conditions were met; and

WHEREAS, after the meeting approving said resolution, Councilman Hensley obtained new information which would have altered his supportive vote of the resolution and requested a reconsideration of the resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That Resolution 10-98-11 is hereby rescinded.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

**ELECTRIC DEPARTMENT MEMORANDUM**  
**11-22**

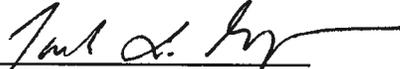
DATE: November 3, 2011  
To: Mark Watson, City Manager  
From: Jack L. Suggs, Electrical Director  
SUBJECT: AWARD OF BID FOR SPACER CABLE

Attached is a resolution making an award in the amount of \$33,320.30 to Ruffin and Associates, Memphis, Tennessee for the provision of materials necessary to construct three-phase spacer cable.

Spacer cable is a type of overhead construction used in areas where interference from trees or other vegetation is likely. The wire itself has an insulation layer and is hung from a ground cable using special insulating spacers. Although the electrical circuit is still vulnerable to being "torn down" by large trees or incidents such as automobile accidents; this type of construction reduces or eliminates outages caused by casual contact with trees or vines and some animal contact. Spacer cable is widely used in our area to improve reliability.

Oak Ridge has spacer cable in several locations. In two locations, the wire is over forty years old and is beginning to fail. The spacer cable being purchased will allow for replacement of approximately 2,500 linear feet on North Illinois and 2,000 feet on Tennessee Avenue. We believe this will be a good investment both in terms of replacing a failing system, but also in installing the latest spacer cable technology. Depending on the ease of installation and total cost when labor is included, staff will evaluate increasing the use of space cable to reduce tree and animal contact outages.

Funding is provided through the Electric Fund. Staff recommends approval of the attached resolution.

  
\_\_\_\_\_  
Jack L. Suggs,  
Electrical Director

cc: Lyn Majeski

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
\_\_\_\_\_  
Mark Watson

  
\_\_\_\_\_  
Date

**CITY OF OAK RIDGE, TENNESSEE**  
Abstract of Bids

OPENING DATE: September 15, 2011 11:30 A.M.

DESCRIPTION	ITEM	UNIT	BIDDER: Ruffin and Associates 3564 Poplar Avenue # 107 Memphis, TN 38111		BIDDER: Marmon Utility LLC 53 Old Wilton Rd. Milford, NH 03055		BIDDER: HD Supply 6020 Industrial Hgts Dr. Knoxville, TN 37909	
			UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL
THE FURNISHING OF 3 PHASE SPACER CABLE SYSTEM PER THE SPECIFICATIONS PROVIDED BY THE CITY OF OAK RIDGE ELECTRIC DEPARTMENT	1		\$ 19,500.30	\$ 19,500.30		\$ 20,968.00		\$ -
	2		\$ 13,820.00	\$ 13,820.00		\$ 14,860.19		
TOTAL PRICE			\$ 33,320.30	\$ 33,320.30		\$ 35,828.19		\$ -
TERMS			Net 30	Net 30		Net 30		
DELIVERY			per Contract	per Contract		per Contract		
F.O.B.			Oak Ridge	Oak Ridge		Oak Ridge		
VIA			Best Way	Best Way		Best Way		
OTHER BIDDERS CONTACTED: _____								
BIDS OPENED AND RECORDED BY: _____								
REASON FOR AWARD			RECOMMEND AWARD BE MADE TO:					
ONLY BID RECEIVED			Ruffin and Associates					
LOW PRICE			3564 Poplar Avenue # 107					
BETTER OR REQUIRED DESIGN			Memphis, TN 38111					
WON COIN TOSS			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>					
LOWEST TOTAL COST								
BIDS REVIEWED BY: _____			Lynn Majeski Accounting Division Manager _____ James McGinnis Finance Director					

NUMBER \_\_\_\_\_

**RESOLUTION**

A RESOLUTION AWARDING A BID IN THE ESTIMATED AMOUNT OF \$33,320.30 TO RUFFIN AND ASSOCIATES, MEMPHIS, TENNESSEE, FOR THE FURNISHING OF 3 PHASE SPACER CABLE SYSTEM.

WHEREAS, the City of Oak Ridge has issued invitations to bid for materials to construct three-phase spacer cable to replace failing systems on North Illinois Avenue and Tennessee Avenue; and

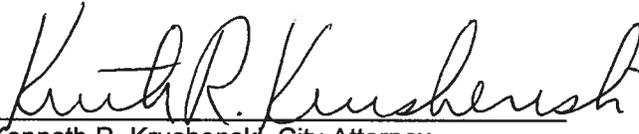
WHEREAS, bids were received and publicly opened on September 15, 2011, with Ruffin and Associates, Memphis, Tennessee, submitting a tie bid and selected by coin toss, which bid the City Manager recommends be accepted.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and award is hereby made to Ruffin and Associates, 3564 Poplar Avenue Suite 107, Memphis, Tennessee 38111, for the furnishing of materials necessary to construct three-phase spacer cable; said award in strict accordance with the required specifications and the bid as submitted and publicly opened on September 15, 2011, and in the estimated amount of \$33,320.30.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

**ELECTRIC DEPARTMENT MEMORANDUM**  
**11-23**

DATE: November 3, 2011

To: Mark Watson, City Manager

From: Jack L. Suggs, Electrical Director

SUBJECT: AWARD OF BID FOR UNDERGROUND ELECTRIC CABLE

Attached is a resolution making an award to Stuart C. Irby, Co. of Johnson City, Tennessee for the provision of 15kV underground power cable in the total estimated amount of \$186,762.40.

Several projects over the last two years have depleted our supplies of certain types of underground electric cable. With more projects coming up and the need to maintain stock for unexpected needs, staff is recommending purchase of three types of cable.

Referring to the bid abstract, Item 1 is a wire type known as "350 concentric neutral" cable. This type of wire is needed for large electric loads, such as might occur in heavy commercial and industrial areas. This wire is needed to complete and replace stock used in feeding the new Centennial Village Apartments on Edgemore Road. It was also used in connecting the new Carbon Fiber facility in Horizon Center.

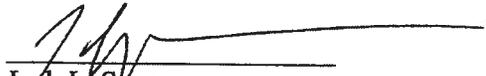
Item 2 on the bid abstract refers to "500 concentric neutral" cable. This type of wire is being used for a new underground line up Wisconsin Avenue and will have enough capacity to feed the entire area under contingency conditions. The majority of the 500 copper, however, will be used in replacing cables inside and adjacent to our substations. As you are aware, our substations have large amounts of cable that are over 40 years old. These cables have started failing, with two failures already occurring at Substation 400. We are recommending purchase of enough cable to replace all remaining old cable at Substation 400.

Item 3 on the bid abstract refers to "750 tape shield" cable. This, the largest of the cables is being purchased to replace failed cable in Substation 300. Customers are currently being fed from the station via a temporary overhead line.

We anticipate that this cable purchase will provide enough of these sizes of conductor to last about two years, or possibly more. With the exception of the 750, we are recommending purchase of three reels extra to place in stock for future needs. Given the lead time of 14-16 weeks, this gives us a great deal of flexibility in dealing with future clients and their electrical needs, and of course the unexpected, such as construction dig-ins.

Staff is very concerned that only one bid was received for this cable. The specifications allowed for two competing cable manufactures to bid through their distributors. According to the Purchasing Department, a total of four vendors were contacted, including two national vendors.

We have, however, compared the prices bid and find them within reasonable industry norms and for that reason are able to recommend approval of the bid. Funding is provided through the Electric Fund.

  
\_\_\_\_\_  
Jack L. Suggs,  
Electrical Director

cc: Lyn Majeski

<p><b>City Manager's Comments:</b></p> <p>I have reviewed the above issue and recommend Council action as outlined in this document.</p> <p> _____ Mark Watson</p> <p>Date <u>11/8/11</u></p>
--

**CITY OF OAK RIDGE, TENNESSEE**  
Abstract of Bids

OPENING DATE: September 15, 2011 11:00 A.M.

DESCRIPTION	ITEM	FEET	BIDDER:		BIDDER:		BIDDER:	
			UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL
15 kv Power Distribution Cable			Stuart C. Irby Co. 501 West Mountain View Rd. Johnson City, TN 37604					
THE FURNISHING OF 15 KV POWER DISTRIBUTION CABLE PER THE SPECIFICATIONS PROVIDED BY THE CITY OF OAK RIDGE ELECTRIC DEPARTMENT	1	5400	\$ 14.559	\$ 78,618.60	\$ -	\$ -	\$ -	\$ -
	2	8225	\$ 10.593	\$ 87,127.43				
	3	750	\$ 16.157	\$ 12,117.75				
* CONTRACT AMENDMENT BUDGET FOR OVERAGE, SHALL NOT EXCEED 5%.	1*		\$ 3,930.93					
	2*		\$ 4,353.72					
	3*		\$ 613.97					
TOTAL PRICE NOT TO EXCEED			\$ 186,762.40	\$ -	\$ -	\$ -	\$ -	\$ -
TERMS			Net 30					
DELIVERY			per Contract					
F.O.B.			Oak Ridge					
VIA			Best Way					
OTHER BIDDERS CONTACTED: Graybar - Knoxville TN Prime Vendor Inc. - Tampa, FL								
BIDS OPENED AND RECORDED BY:--- <i>Lyn Majeski</i> Lyn Majeski Accounting Division Manager								
BIDS REVIEWED BY:--- <i>Jamie McInnis</i> Jamie McInnis Finance Director								
REASON FOR AWARD			RECOMMEND AWARD BE MADE TO:					
<input checked="" type="checkbox"/> ONLY BID RECEIVED <input type="checkbox"/> LOW PRICE <input type="checkbox"/> BETTER OR REQUIRED DESIGN <input type="checkbox"/> EARLY DELIVERY <input type="checkbox"/> LOWEST TOTAL COST			Stuart C. Irby Co. 501 West Mountain View Rd. Johnson City, TN 37604					

**RESOLUTION**

A RESOLUTION AWARDING A BID IN THE ESTIMATED AMOUNT OF \$186,762.40 TO STUART C. IRBY COMPANY, JOHNSON CITY, TENNESSEE, FOR THE FURNISHING OF UNDERGROUND POWER CABLE.

WHEREAS, the City of Oak Ridge has issued invitations to bid for the purchase of 15kV underground power cable for use in its electrical distribution system for upcoming projects and to maintain stock for unexpected needs; and

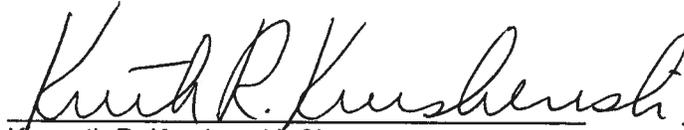
WHEREAS, bids were received and publicly opened on September 15, 2011, with Stuart C. Irby Company, Johnson City, Tennessee, submitting the sole bid, which bid the City Manager recommends be accepted.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and award is hereby made to Stuart C. Irby Company, 501 West Mountain View Road, Johnson City, Tennessee 37604, for the furnishing of 15kV underground power cable; said award in strict accordance with the required specifications and the bid as submitted and publicly opened on September 15, 2011, and in the estimated amount of \$186,762.40.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

**PUBLIC WORKS MEMORANDUM**  
**11-27**

**DATE:** November 7, 2011  
**TO:** Mark S. Watson, City Manager  
**FROM:** Gary M. Cinder, P.E., Director of Public Works  
**SUBJECT:** RESURFACING SECTIONS OF CITY STREETS

The accompanying resolution authorizes approval of a contract between the City of Oak Ridge and the State of Tennessee Department of Transportation (TDOT) for resurfacing of portions of nine city streets totaling 5.17 centerline miles. In addition to the resurfacing, some locations require related improvements such as sidewalk and curb repair, and installation of handicap ramps. The street sections proposed for resurfacing in this project are shown on the following page.

The Federal government provides funds to local municipalities that may be utilized for improvements or maintenance on city streets, which are included on TDOT's Urban Functional Classification System list. For inclusion in the Urban Functional Classification System, the streets must be classified as urban principal arterial, urban minor arterial and/or urban collector streets. Administration of fund distribution is managed by TDOT and is provided on an 80/20 match. Eighty percent of the project cost will be paid from Surface Transportation Program (STP) program funds with the City being responsible for the remaining twenty percent.

Streets were selected based on condition and eligibility of funds. The project will be designed, bid, and constructed by TDOT using TDOT specifications.

The estimated costs for the entire project are:

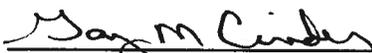
Preliminary Engineering	\$ 71,629.00
Construction	<u>\$1,432,578.00</u>
Total Estimated Cost	<u>\$1,504,207.00</u>

As of March 2011, the City has available approximately \$1,322,000. This is the cumulative total of funds granted to the City for the years from 2010 to 2013. TDOT has asked that the City obligate and use the funds during 2012 if possible. Since TDOT will fund 80 percent of this project or \$1,203,365, the City will be responsible for a 20 percent match of \$300,841. After construction, if the actual cost of the project were to exceed the total balance available, the City would be responsible for any additional funds.

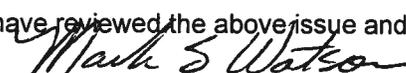
The list on the following page includes the three western most sections of Emory Valley Road. TDOT regulations require that when a roadway improvement project intersects a signalized railroad crossing the signal crossing equipment must be upgraded to current standards. The estimated cost for these improvements could be as much as \$250,000. This cost is not included in the project estimate and the City would be responsible. The last known use of this track was in the early 1990's when TVA brought in the windmill equipment, now located on Buffalo Mountain. The line became inaccessible for railway use in 2010 when the tracks were removed at Melton Lake Drive, and the track which formerly served Y-12 is under review by CSX and the Surface and Transportation board for formal abandonment. Unfortunately, this process can take two years. In the interim, city staff has contacted CSX and requested they waive the requirement to upgrade the crossing equipment. In the event the City receives an unfavorable response or no response, the affected section of Emory Valley Road will be deleted from the project to avoid the unnecessary expense of upgrading a signal on an unusable track.

It is planned for the project to be bid in the spring of 2012 with actual paving to occur in the summer.

The City's share of funding for this project is available in the State Street Aid Fund. Staff recommends approval of the accompanying resolution.

  
\_\_\_\_\_  
Gary M. Cinder

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Attachments

<p><b>City Manager's Comments:</b></p> <p>I have reviewed the above issue and recommend council action as outlined in this document.</p> <p> _____ Mark S. Watson</p> <p style="text-align: right;"><u>11/8/11</u> Date</p>
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<b>Street</b>	<b>Section</b>	<b>Miles</b>
Emory Valley Road	Lafayette Drive to Fordham Road	0.104
Emory Valley Road	Fordham Road to Briarcliff Avenue	0.818
Emory Valley Road	Briarcliff Avenue to Davidson Lane	0.43
Administration Road	Oak Ridge Turnpike to Laboratory Road	0.311
East Tulsa Road	South Illinois Avenue to Tuskegee Drive	0.426
Outer Drive	Pennsylvania Avenue to New York Avenue	0.459
West Outer Drive	Wadsworth Circle East to Highland Avenue	0.19
West Outer Drive	Highland Avenue to Wabash Lane	0.115
West Outer Drive	Wabash Lane to Westlook Drive	0.236
West Outer Drive	Westlook Drive to Pennsylvania Avenue	0.18
Jefferson Avenue	North Jefferson Circle to Robertsville Road	0.138
Alger Road	Arkansas Avenue to Amherst Lane	0.212
Arkansas Avenue	Atlanta Avenue to Alger Road	0.222
New York Avenue	Oak Ridge Turnpike to Vance Road	0.117
<b>Total Centerline Miles</b>		<b>5.17</b>

**RESOLUTION**

A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR THE RESURFACING OF DESIGNATED CITY STREETS UTILIZING APPROXIMATELY \$1,203,365.00 OF THE CITY'S ALLOCATED SURFACE TRANSPORTATION PROGRAM FUNDS TO BE MATCHED WITH APPROXIMATELY \$300,841.00 IN CITY FUNDS.

WHEREAS, federal Surface Transportation Program funds are available to municipalities through the State of Tennessee Department of Transportation (TDOT) on an 80/20 match for various street improvements; and

WHEREAS, the City of Oak Ridge seeks approval to utilize approximately \$1,203,365.00 of TDOT's allocated funds for improvements to City streets; and

WHEREAS, the project will be designed, bid and constructed by TDOT using TDOT's specifications; and

WHEREAS, TDOT has submitted a contract for the resurfacing of designated City streets; and

WHEREAS, the City Manager recommends approval of the contract with TDOT.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the City is hereby authorized to enter into a contract with the Tennessee Department of Transportation for the resurfacing of designated City streets utilizing approximately \$1,203,365.00 of the City's allocated State Transportation Program funds, to be matched with approximately \$300,841.00 City funds which funding is available from the State Street Aid Fund.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, Acting City Clerk

**PUBLIC WORKS DEPARTMENT MEMORANDUM**  
**11-29**

**DATE:** November 4, 2011  
**TO:** Mark S. Watson, City Manager  
**FROM:** Gary M. Cinder, P.E., Public Works Director  
**SUBJECT: PURCHASE OF HYDRAULIC EXCAVATOR**

The accompanying resolution recommends the purchase of one Gradall XL 4100 III hydraulic excavator from CMI Equipment Sales, Inc., Nashville, TN, per the specifications provided in the estimated amount of \$333,015.

The new Gradall will replace equipment number 443, a 1990 Gradall that was purchased used by the City in October of 1992. Equipment number 443 is twenty-one (21) years old, has registered approximately 9,381 miles and 4,614 hours and is in poor condition with limited replacement parts available, making it difficult to repair. Upon delivery of the new Gradall, equipment number 443 will be sold as surplus.

Excavation equipment is required to be readily available by the Public Works Department in order to complete tasks such as installing water mains, repairing water breaks, replacing water service lines, replacing storm tile, cleaning drainage ditches, and repairing sewer mains in an efficient and timely manner. It is expected that the new Gradall hydraulic excavator will provide service to the City for fifteen to eighteen years.

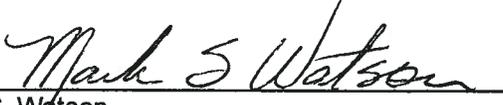
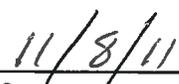
Pictures of equipment number 443 as well as the Gradall XL 4100 III are attached. This Gradall equipment meets the latest Tier IV EPA requirements for diesel engine emissions, which requires the reduction of emissions from nonroad diesel engines. To meet these emission standards, engine manufacturers must provide engines with advanced emission-control technologies similar to those already expected for highway trucks and buses.

Bids were solicited from four vendors with CMI Equipment Sales, Inc. submitting the lowest bid. The Public Works Department staff recommends the purchase of this equipment, as budgeted, with funding provided by the recent bond issue.

Staff recommends approval of the attached resolution as submitted.

  
\_\_\_\_\_  
Gary M. Cinder, P.E.

Attachments

<p><b>City Manager's Comments:</b></p> <p>I have reviewed the above issue and recommend council action as outlined in this document.</p> <p> _____ Mark S. Watson</p> <p style="text-align: right;"> _____ Date</p>
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**Equipment #443  
21 Years Old  
9,381 Miles and 4,614 Hours**



**Gradall XL 4100 III**

**CITY OF OAK RIDGE, TENNESSEE**  
**Abstract of Bids**

RFQ #125611  
 OPENING DATE: October 13, 2011 2:00 P.M.

DESCRIPTION	ITEM	UNIT	BIDDER:		BIDDER:		BIDDER:	
			UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL
Hydraulic Excavator								
THE FURNISHING OF A GRADALL XL4100 SERIES IV HYDRAULIC EXCAVATOR PER THE SPECIFICATIONS PROVIDED BY THE CITY OF OAK RIDGE PUBLIC WORKS DEPARTMENT	1		\$ 333,015.00	\$ 333,015.00	\$ 341,505.00	\$ 341,505.00	\$ -	\$ -
NOTE: Series IV machines meet the latest Tier IV EPA requirements for diesel engine emissions as well as other performance enhancements.								
TOTAL PRICE			\$ 333,015.00	\$ 333,015.00	\$ 341,505.00	\$ 341,505.00	\$ -	\$ -
TERMS			Net 30	Net 30	Net 30	Net 30	Net 30	Net 30
DELIVERY			2 - 3 Weeks ARO	30-60 Days ARO	30-60 Days ARO	30-60 Days ARO	30-60 Days ARO	30-60 Days ARO
F.O.B.			Oak Ridge	Oak Ridge	Oak Ridge	Oak Ridge	Oak Ridge	Oak Ridge
VIA			Delivered	Truck	Truck	DIRECT	DIRECT	DIRECT
OTHER BIDDERS CONTACTED: Tractor & Equipment - Kennesaw, GA Tractor & Equipment - Calhoun, GA								
REASON FOR AWARD			RECOMMEND AWARD BE MADE TO:					
ONLY BID RECEIVED <input type="checkbox"/> LOW PRICE <input type="checkbox"/> BETTER OR REQUIRED DESIGN <input type="checkbox"/> EARLY DELIVERY <input type="checkbox"/> LOWEST TOTAL COST <input checked="" type="checkbox"/>			CMI Equipment Sales 2405 Dickerson Road Nashville, TN 37207					
BIDS OPENED AND RECORDED BY:--  Lyn Majeski Accounting Division Manager			BIDS REVIEWED BY:--  Janice McGinnis Finance Director					

NUMBER \_\_\_\_\_

**RESOLUTION**

A RESOLUTION AUTHORIZING THE PURCHASE OF A HYDRAULIC EXCAVATOR FROM CMI EQUIPMENT SALES, INC., NASHVILLE, TENNESSEE, IN THE ESTIMATED AMOUNT OF \$333,015.00.

WHEREAS, the City of Oak Ridge has issued invitations to bid for the furnishing of a hydraulic excavator for the Public Works Department to replace current equipment that is in poor condition; and

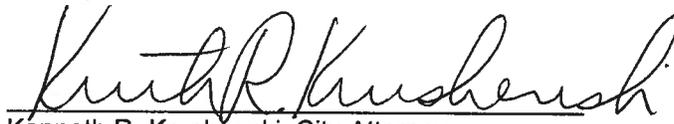
WHEREAS, bids were received and publicly opened on October 13, 2011, with CMI Equipment Sales, Inc., Nashville, Tennessee, submitting the lowest and best bid, which bid the City Manager recommends be accepted.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and award is hereby made to CMI Equipment Sales, Inc., 2405 Dickerson Road, P.O. Box 78098, Nashville, Tennessee 37207, for the furnishing one (1) hydraulic excavator for the Public Works Department; said award in strict accordance with Requisition No. 125611, the required specifications, and the bid as publicly opened on October 13, 2011, and in the estimated amount of \$333,015.00.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

**ADMINISTRATIVE SERVICES MEMORANDUM**

104-12

DATE: November 3, 2011  
TO: Mark S. Watson, City Manager  
FROM: Steven W. Jenkins, Deputy City Manager  
SUBJECT: Recommended Debt Management Policy

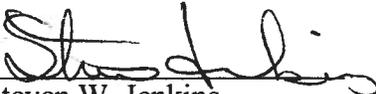
Attached is the Debt Management Policy for the City of Oak Ridge. This Debt Policy fulfills the requirements of the State of Tennessee regarding the adoption of a formal debt management policy on or before January 1, 2012.

Future debt issues will be consistent with the Policy and will continue to demonstrate the commitment to long-term capital planning that the City has established. It also establishes parameters for the issuance process, transparency, and the management and structure of the City's debt. It will assist City Council and City staff in the decision process related to long term debt and a justification for the structure of future debt issuances. This Policy will also signal to credit rating agencies, investors and the capital markets that the City continues to be well managed, and will always be prepared to meet its obligations in a timely manner.

Based on Ms. Smith's comments, the Policy has been simplified by removing a portion of the language that was explanatory, but not necessary. The changes are highlighted in red on the attached copy of the policy. In addition, the glossary has been expanded. There is also a final copy attached.

There is a misconception that this policy must be approved by the State Comptroller. It does not have to be approved by the Comptroller. However, when the City issues new debt, the Comptroller will review the City's debt policy to ensure that the City is issuing debt in compliance with its policy. That addresses one of Ms. Smith concerns about City Council ability to amend the policy as stated in the last paragraph of the policy. As long as the policy meets the Comptroller's minimum standard, it can be amended by a simple majority of City Council.

It is also important to note that this is not a financial or budget policy. In summary, the Debt Policy provides guidelines for the City to manage its debt and related annual costs within both current and projected available resources while promoting understanding and transparency for our citizens, taxpayers, ratepayers, businesses, investors and other interested parties.

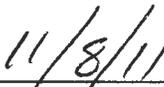
  
Steven W. Jenkins

Attachments

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
\_\_\_\_\_  
Mark S. Watson

  
\_\_\_\_\_  
Date

# **City of Oak Ridge, Tennessee Debt Management Policy**

## **Introduction**

This Debt Management Policy (the “Debt Policy”) is a written guideline with parameters that affect the amount and type of debt that can be issued by the City of Oak Ridge, Tennessee (the “City”), the issuance process and the management of the City’s debt. The purpose of this Debt Policy is to improve the quality of management and legislative decisions and to provide justification for the structure of debt issuances consistent with the Debt Policy’s goals while demonstrating a commitment to long-term capital planning. It is also the intent of the City that this Debt Policy will signal to credit rating agencies, investors and the capital markets that the City is well managed and will always be prepared to meet its obligations in a timely manner. This Debt Policy fulfills the requirements of the State of Tennessee regarding the adoption of a formal debt management policy on or before January 1, 2012.

This Debt Policy provides guidelines for the City to manage its debt and related annual costs within both current and projected available resources while promoting understanding and transparency for our citizens, taxpayers, ratepayers, businesses, investors and other interested parties.

In managing its debt, it is the City's policy to:

- Achieve the lowest cost of capital within acceptable risk parameters.
- Maintain or improve credit ratings.
- Assure reasonable cost access to the capital markets.
- Preserve financial and management flexibility.
- Manage interest rate risk exposure within acceptable risk parameters

## **Definition of Debt**

All obligations of the City to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of City resources. This includes but is not limited to tax-exempt or taxable bonds, capital outlay notes, other notes, capital leases, and loans of any type whether from an outside source such as a bank or from another internal fund.

## **Goals and Objectives**

Debt policies and procedures are tools that ensure that financial resources are adequate to meet the City's long-term capital planning objectives. In addition, the Debt Policy helps to ensure that financings undertaken by the City have certain clear, objective standards that allow the City to protect its financial resources in order to meet its long-term capital needs.

The Debt Policy formally establishes parameters for issuing debt and managing a debt portfolio which considers the City's specific capital improvement needs; ability to repay financial obligations; and, existing legal, economic, and financial market conditions. Specifically, the policies outlined in this document are intended to assist in the following:

- To guide the City in policy and debt issuance decisions,
- To maintain appropriate capital assets for present and future needs,
- To promote sound financial management,
- To protect the City's credit rating,
- To ensure the City's debt is issued legally under applicable state and federal laws,
- To promote cooperation and coordination with other parties in the financing, and
- To evaluate debt issuance options.

### **Authority and Approval**

- The City will only issue debt by utilizing the statutory authorities provided by *Tennessee Code Annotated* as supplemented and revised (“TCA”) and the Internal Revenue Code (the “Code”).
- The City will adhere to any lawfully promulgated rules and regulations of the State and those promulgated under the Code. Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller’s Office and the City Council prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the Comptroller’s Office prior to issuance. Capital or operating leases may be entered into by the City; with details on the lease agreement to be forwarded to the Comptroller’s Office as may be required.
- All debt will be formally authorized by resolution of the City Council as may be required by law.

### **Transparency**

- The City shall comply with legal requirements for notice and for public meetings related to debt issuance.
- In the interest of transparency, all costs (including principal, interest, issuance, continuing, and one-time) shall be clearly presented and disclosed to the City Council, citizens, and other stakeholders in a timely manner.
- The terms and life of each debt issue shall be clearly presented and disclosed to the City Council, citizens, and other stakeholders in a timely manner.
- A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the City Council, citizens, and other stakeholders in a timely manner.
- The issuance of debt has various approvals and on occasion, written reports provided by the State of Tennessee Comptroller’s office either prior to adoption of resolutions authorizing such debt, prior to issuance, and/or following issuance. The City shall

provide the Tennessee Comptroller's office sufficient information on the debt to not only allow for transparency regarding the issuance, but also assuring that the Comptroller's office has sufficient information to adequately report or approve any formal action related to the sale and issuance of debt. The City will also make this information available to the City Council, citizens, and other stakeholders.

- The City will file its Comprehensive Annual Financial Report and any Continuing Disclosure document prepared by the City or its Dissemination Agent as may be required, and shall make available the same to all interested parties.

### **Credit Quality and Credit Enhancement**

The City's debt management activities will be conducted in order to maintain or receive the highest possible credit ratings. City Management in conjunction with any professionals that the City may chose to engage will be responsible for maintaining relationships and communicating with one or more rating agencies.

The City will consider the use of credit enhancements on a case-by-case basis, evaluating the economic benefit versus cost for each case. Only when clearly demonstrable savings can be shown shall an enhancement be considered. The City will consider each of the following enhancements as alternatives by evaluating the cost and benefit of such enhancements:

- Insurance – The City may purchase bond insurance when such purchase is deemed prudent and advantageous. The predominant determination shall be based on such insurance being less costly than the present value of the difference in the interest on insured bonds versus uninsured bonds.
- Letters of Credit – The City may enter into a letter-of-credit (“LOC”) agreement when such an agreement is deemed prudent and advantageous. The City or its professionals, if any, may seek proposals from qualified banks or other qualified financial institutions pursuant to terms and conditions that are acceptable to the City.

### **Affordability**

The City shall consider the ability to repay debt as it relates to the total budget resources, the wealth and income of the community, and its property tax base and other revenues available to service the debt. The City may consider debt ratios and other benchmarks compared to its peers when analyzing its debt including materials published by the nationally recognized credit rating agencies. The City's total outstanding debt obligation will be monitored and reported to the City Council on an annual basis through various schedules included in both the Comprehensive Annual Financial Report and Annual Budget. City Management shall monitor the maturities, terms, and conditions of all obligations to ensure compliance. City Management shall also report to the City Council any matter that adversely affects the credit or financial integrity of the City.

## Debt Structure

The City shall establish all terms and conditions relating to the issuance of debt and will invest all bond proceeds pursuant to the terms of its investment policy, if any. Unless otherwise authorized by the City, the following shall serve as the Debt Policy for determining structure.

### Term

All capital improvements financed through the issuance of debt will be financed for a period not to exceed the useful economic life of the improvements and in consideration of the ability of the City to absorb such additional debt service expense. The term of debt shall be determined by, but not limited to, the economic life of the assets financed, conditions in the capital markets, the availability of adequate revenue streams to service the debt and the existing pattern of debt payable from such identifiable fund or enterprise activity, but in no event will the term of such debt exceed forty (40) years, as outlined in TCA.

Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the City will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management. Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence.

### Capitalized Interest

From time to time, certain financings may require the use of capitalized interest from the date of issuance until the City is able to realize beneficial use and/or occupancy of the financed project. Interest may be capitalized through a period permitted by law.

### Debt Service Structure

General Obligation debt issuance shall be planned to achieve relatively net level debt service or level principal amortization considering the City's outstanding debt obligations, while matching debt service to the useful economic life of facilities. Absent events or circumstances determined by City Council, the City shall avoid the use of bullet or balloon maturities (with the exception of sinking fund requirements required by term bonds) except in those instances where such maturities serve to make existing overall debt service level or match specific income streams. Debt which is supported by project revenues and is intended to be self-supporting should be structured to achieve level proportional coverage to expected available revenues.

### Call Provisions

In general, the City's debt should include a call feature no later than ten (10) years from the date of delivery of the bonds. The City will avoid the sale of long-term debt which carries longer redemption features unless a careful evaluation has been conducted by City Management and/or professionals, if any, with respect to the value of the call option.

### Original Issuance Discount/Premium

Debt with original issuance discount/premium will be permitted.

### Deep Discount Bonds

Deep discount debt may provide a lower cost of borrowing in certain capital markets. City Management and/or professionals, if any, should carefully consider their value and effect on any future refinancing as a result of the lower-than-market coupon.

### Types and Limits of Debt

When the City determines that debt is appropriate, consideration of the security structure, duration, interest rate modes, zero coupon debt, and synthetic debt will be utilized to evaluate the type of debt to be issued.

### Security Structure

- General Obligation Bonds – The City may issue debt supported by its full faith, credit, and unlimited ad valorem taxing power (“General Obligation Debt”). General Obligation Debt shall be used to finance capital projects that do not have significant independent creditworthiness or significant on-going revenue streams or as additional credit support for revenue-supported debt, if such support improves the economics of the debt and is used in accordance with these guidelines.
- Revenue Debt – The City may issue debt supported exclusively with revenues generated by a project or enterprise fund (“Revenue Debt”), where repayment of the debt service obligations on such revenue debt will be made through revenues generated from specifically designated sources. Typically, revenue debt will be issued for capital projects which can be supported from project or enterprise-related revenues.
- Capital Leases – The City may use capital leases to finance projects assuming City Management and/or professionals, if any, determine that such an instrument is economically feasible.

### Duration

- Long-Term Debt – The City may issue long-term debt when it is deemed that capital improvements should not be financed from current revenues or short-term borrowings. Long-term debt will not be used to finance current operations or normal maintenance. Long-term debt will be structured such that financial obligations do not exceed the expected useful economic life of the project(s) financed.
  1. *Serial and Term Debt.* Serial and Term Debt may be issued in either fixed or variable rate modes to finance capital infrastructure projects.

2. *Capital Outlay Notes (“CONs”)*. CONs may be issued to finance capital infrastructure projects with an expected life up to twelve years.
  3. *Capitalized Leases*. Capitalized Leases may be issued to finance infrastructure projects or equipment with a capitalized lease life not greater than the expected useful life of the projects or equipment.
- Short-Term Debt – Short-term borrowing may be utilized for:
    1. Financing short economic life assets;
    2. The construction period of long-term projects;
    3. For interim financing; or
    4. For the temporary funding of operational cash flow deficits or anticipated revenues subject to the following policies:
      - *Bond Anticipation Notes (“BANs”)*. BANs, including commercial paper notes issued as BANs, may be issued instead of capitalizing interest to reduce the debt service during the construction period of a project or facility. The BANs shall not mature more than 2 years from the date of issuance. BANs can be rolled in accordance with federal and state law. BANs shall mature within 6 months after substantial completion of the financed facility.
      - *Revenue Anticipation Notes (“RANs”) and Tax Anticipation Notes (“TANs”)*. RANs and TANS shall be issued only to meet cash flow needs consistent with a finding by bond counsel that the sizing of the issue fully conforms to federal IRS and state requirements and limitations.
      - *Lines of Credit*. Lines of Credit shall be considered as an alternative to other short-term borrowing options. A line of credit shall only be structured to federal and state requirements.
      - *Interfund Loans*. Interfund Loans shall only be used to fund operational deficiencies among accounts or for capital projects to be paid from current fiscal year revenues. Such interfund loans shall comply with state regulations and limitations.
      - *Other Short-Term Debt*. Other Short-Term Debt including commercial paper notes, BANs, Capitalized Leases and CONs may be used when it provides an interest rate advantage or as interim financing until market conditions are more favorable to issue debt in a fixed or variable rate mode. The City will determine and utilize the most advantageous method for short-term borrowing. The City may issue short-term debt when there is a defined repayment source or amortization of principal.

### Interest Rate Modes

Debt will be issued with either a fixed, variable, or zero interest-bearing rate.

- Fixed Rate Debt – To maintain a predictable debt service schedule, the City may give preference to debt that carries a fixed interest rate.

- Variable Rate Debt – The targeted percentage of net variable rate debt outstanding shall not normally exceed 35% of the City's total outstanding debt and will take into consideration the amount and investment strategy of the City's operating cash.

An analysis by City Management and/or professionals, if any, shall be conducted to evaluate and quantify the risks and returns associated with the variable rate debt including, but not limited to, a recommendation regarding the use of variable rate debt. The City Council will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations prior to entering into any variable debt obligation. Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider or by a letter of credit provider, the City Council shall also be informed of the potential effect on rates as well as any additional costs that might be incurred should either the insurance or letter of credit fail, respectively. The City will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration

Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The City may use its General Obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the City. The City Council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the City's General Fund.

#### Zero Coupon Debt

Zero Coupon Debt may be used if an analysis has been conducted by City Management and/or professionals, if any, and the risks and returns associated with the Zero Coupon Debt have been made. The analysis shall include, but not be limited to a recommendation regarding the use of Zero Coupon Debt as the most feasible instrument considering available revenues streams, the need for the project and other factors determined by City Council

#### Synthetic Debt

The City will not enter into any new interest rate swaps or other derivative instruments unless it adopts a Debt Derivative Policy consistent with the requirements of TCA and only after approval of the State Comptroller's office and affirmative action of City Council.

#### Costs of Debt

- All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the City Council in accordance with the notice requirements stated above.

- In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.
- Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e. General Obligations bonds in context of the General Fund, Revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes).

### **Refinancing Outstanding Debt**

City Management, in conjunction with professionals, if any, shall have the responsibility to analyze outstanding debt for refunding opportunities. The decision to refinance must be explicitly approved by City Council, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations. City Management will consider onerous restrictions, restructuring for economic purposes, term, escrow saving, and arbitrage when analyzing possible refunding opportunities.

- Onerous Restrictions – Debt may be refinanced to eliminate onerous or restrictive covenants or restrictions contained in existing debt documents.
- Restructuring for Economic Purposes – The City may also refund debt when it is in its best financial interest to do so. Such a refunding will be limited to restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, release reserve funds, or any other reason approved by City Council in its discretion.
- Term of Refunding Issues – Normally, the City will refund debt equal to or within its existing term. However, City Management may consider maturity extension, when necessary to achieve desired outcomes, provided that such extension is legally permissible and it is approved by the City Council. City Management may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful economic life of the financed facility and the concept of inter-generational equity should guide these decisions.
- Escrow Structuring – The City shall utilize the least costly securities available in structuring refunding escrows.
- Arbitrage – The City shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. The City shall take all necessary steps to optimize escrows and to avoid negative arbitrage in its refunding. Any positive arbitrage will be rebated as necessary according to Federal guidelines.

### **Methods of Issuance**

City Management may consult with a professional regarding the method of sale of debt. Subject to approval by City Council, City Management will determine the method of issuance of debt on a case-by-case basis consistent with the options provided by prevailing State law.

### Competitive Sale

In a competitive sale, the City's debt will be offered in a public sale to any and all eligible bidders. Unless bids are rejected, the debt shall be awarded to the bidder providing the lowest true interest cost as long as the bid adheres to the requirements set forth in the official notice of sale.

In a competitive sale, a financial advisor shall not be permitted to bid on an issue for which they are, or have been providing, advisory services for the issuance, unless otherwise authorized by applicable law and regulation.

### Negotiated Sale

The City recognizes that some securities are best sold through a negotiated sale with an underwriter or group of underwriters. The City shall assess the following circumstances in determining whether a negotiated sale is the best method of sale:

- State requirements on negotiated sales;
- Debt structure which may require a strong pre-marketing effort such as those associated with a complex transaction generally referred to as a "story" bond;
- Size or structure of the issue which may limit the number of potential bidders;
- Market conditions including volatility wherein the City would be better served by the flexibility afforded by careful timing and marketing such as is the case for debt issued to refinance or refund existing debt;
- Whether the debt is to be issued as variable rate obligations or perhaps as Zero Coupon Debt;
- Whether an idea or financing structure is a proprietary product of a single firm;
- In a publicly offered or privately placed, negotiated sale, a financial advisor, if any, shall not be permitted to privately place or underwrite an issue for which they are, or have been providing, advisory services for the issuance; and
- If there is an underwriter, the City shall require the underwriter to clearly identify itself in writing (e.g., in a response for request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the City with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's length commercial transaction and that it has financial and other interests that differ from those of the City. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the City in advance of the pricing of the debt.

### Private Placement

From time to time, the City may elect to privately place its debt. Such placement shall only be considered if this method is demonstrated to be advantageous to the City.

## **Professional Services**

As needed, the City may select professionals to assist in its debt issuance and administration processes. In selecting professionals, consideration should be given with respect to:

- Relevant experience with municipal government issuers and the public sector;
- Indication that the firm has a broadly based background and is therefore capable of balancing the City's overall needs for continuity and innovation in capital planning and debt financing;
- Experience and demonstrated success as indicated by its experience;
- The firm's professional reputation;
- Professional qualifications and experience of principal employees; and
- The estimated costs, but price should not be the sole determining factor.

The City shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the City and the lender or conduit issuer, if any. This includes “soft” costs or compensations in lieu of direct payments.

- **Counsel:** The City shall enter into an engagement letter agreement with each lawyer or law firm representing the City in a debt transaction. No engagement letter is required for any lawyer who is an employee of the City or lawyer or law firm which is under a general appointment or contract to serve as counsel to the City. The City does not need an engagement letter with counsel not representing the City, such as underwriters’ counsel.
- **Financial Advisor:** The City shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions.

## **Conflicts**

- Professionals involved in a debt transaction hired or compensated by the City shall be required to disclose to the City existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the City to appreciate the significance of the relationships.
- Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

## **Compliance**

### **Continuing Annual Disclosure**

Normally at the time debt is delivered, the City will execute a Continuing Disclosure Certificate in which it will covenant for the benefit of holders and beneficial owners of the publically traded debt to provide certain financial information relating to the City by not later than twelve months after each of the City's fiscal years, (the "Annual Report" and provide notice of the occurrence of certain enumerated events). The Annual Report will be filed with the MSRB through the operation of the Electronic Municipal Market Access system ("EMMA") and any State Information Depository established in the State of Tennessee (the "SID"). If the City is unable to provide the Annual Report to the MSRB and any SID by the date required, notice of each failure will be sent to the MSRB and any SID on or before such date. The notices of certain enumerated events will be filed by the City with the MSRB through EMMA and any SID. The specific nature of the information to be contained in the Annual Report or the notices of significant events is provided in each Continuing Disclosure Certificate. These covenants are made in order to assist underwriters in complying with SEC Rule 15c2-12(b) (the "Rule").

### **Arbitrage Rebate**

The City will also maintain a system of record keeping and reporting which complies with the arbitrage rebate compliance requirements of the Internal Revenue Code (the "Code").

### **Records**

The City will also maintain records required by the Code including, but not limited to, all records related to the issuance of the debt including detailed receipts and expenditures for a period up to 6 years following the final maturity date of the debt or as required by the Code.

### **Debt Policy Review**

The guidelines outlined herein are only intended to provide general guidance regarding procedures for the future issuance of debt. The City maintains the right to modify this Debt Policy and may make exceptions to any of its guidelines at any time to the extent that the execution of such debt achieves the goals of the City as long as such exceptions or changes are consistent with TCA and any rules and regulations promulgated by the State.

The City Manager or his designee is responsible for ensuring substantial compliance with this Debt Policy.

References: TCA 9-21-151

## GLOSSARY

**Advisor** means an individual or firm with a deep knowledge in a specific area, engaged in the business of advising others. It can include a Financial, Swap, or Program Administrator.

**Arbitrage** is the profit made from investing inherently lower yielding tax-exempt debt proceeds in higher yielding taxable investments.

**Arbitrage Rebate** is a payment made by an issuer to the federal government in connection with an issue of tax-exempt bonds. The payment represents the amount, if any, of arbitrage earnings on bond proceeds and certain other related funds, except for earnings that are not required to be rebated under limited exemptions provided under the Internal Revenue Code.

**Backloading** refers to delaying repayment of principal until the end of the financing term. A standard or default structure for debt service is level debt service payments, similar to a standard home mortgage. Backloading should be considered only when beneficial to the overall amortization of debt, upon the occurrence of natural disasters, or when project revenues are not available during the early years of a project.

**Call Feature** (or Call Provision) of a bond grants the issuer the right to retire the debt, fully or partially, before the scheduled maturity date. Inclusion of a call feature benefits bond issuers by allowing them to replace an old bond issue with a lower-interest cost issue if interest rates in the market fall.

**Capital** has several meanings and it is used in many business contexts. In general, capital is accumulated assets or ownership. More specifically: capital is the amount of cash and other assets owned by a business and can include accounts receivable, equipment, and land/buildings of the business; capital can represent the accumulated wealth of a business, represented by its assets less liabilities; and capital can also mean stock or ownership in a company.

**Capitalized Interest** is the interest used to finance the construction of a long-term asset that an entity builds for itself (such as a building). This interest is added to the cost of the long-term asset, so that the interest is not recognized in the current period as interest expense. Instead it is a fixed asset, and is included in the depreciation of the long-term asset, and therefore appears on the income statement as depreciation expense, rather than interest expense.

**Conduit Entity** means a governmental entity or agency that borrows money to lend to another entity, and not to finance a project for itself. Examples of conduit issuers are health and education boards, economic development boards, and public building authorities.

**Conflicts of Interest** occur in situations where parties in a transaction have multiple interests or relationships that could possibly corrupt the motivation to act. The presence of a conflict of interest indicates the potential for divided loyalty and does not automatically indicate wrong doing.

**Issuance Costs** fees and expenses of professionals and service providers and other similar fees and expenses, whether or not payable at the time the debt is incurred. “Costs” also means recurring and nonrecurring fees and expenses during the life of the debt.

**Counsel** means a legal advisor or attorney, whether an individual or a firm, representing a client. It can include Bond, Disclosure, Issuer, Swap, Tax, or Underwriters Counsel.

**Counterparty** means the other party or participant in an agreement or contract; usually it refers to the other party in an Interest Rate (or swap) Agreement.

**Debt** means indebtedness lawfully issued, executed or assumed by a public entity. Debt is created when a public entity agrees to pay over time to someone else, in exchange for receiving an upfront payment or loan or for acquiring an asset. “Security” refers both to debt that can be transferred or delivered to another party, as well to property or assets pledged as collateral for a debt. Common instruments or evidence of debt are:

- **Bonds** - debt instruments issued for a period of one year or longer, usually for permanent financing.
- **Notes** - debt instruments issued for a short period of time, often for interim financing. Notes may be rolled to bonds. Examples are Capital Outlay Notes, Tax and Revenue Anticipation Notes, Bond Anticipation Notes, and Grant Anticipation Notes.
- **Capital leases** (or a lease purchase) - written agreements allowing the use of property in exchange for payment of funds.
- **Loans** - debt agreements usually with a financial institution such as a local bank or an organized loan program such as the Tennessee Municipal Bond Fund or the State Revolving Loan Program. Loans are also internal loans between funds within the entity or seller financed loans.

**Debt Service** means a series of payments including interest (the amount or fee earned or paid for use of money or credit, calculated on the amount of principal) and principal (the amount of money borrowed or credit provided) required on a debt over time. The rate of interest can be variable or fixed.

**Derivative (Financial)** is a contract between two parties that specifies conditions—in particular, dates and the resulting values of the underlying variables—under which payments, or payoffs, are to be made between the parties

**Engagement Letter** is a written agreement to perform services in exchange for compensation and are traditionally used by certain professional service firms, particularly in the fields of finance, accounting, law and consulting to define the specifics of the business relationship. Engagement letters are signed by the consenting parties and serve the same purpose as a traditional contract.

**Federal Compliance Issues** means the ongoing responsibilities of a public entity after issuing debt. If the debt is sold as being “federally tax-exempt,” then the entity will have to comply with federal tax law. If the debt is a “security” for federal securities laws, then the public entity is subject to anti-fraud provisions and possibly is subject to continuing disclosure obligations.

**Finance Transactions** mean both debt obligations and derivatives. A derivative is a financial product deriving value from a separate security. This term refers to many different products. “Derivative” includes an Interest Rate Agreement as defined in Tennessee Code Annotated Section 9-22-103 and other transactions as identified by the State Funding Board.

**Governing Body** means the group of individuals with the authority to make decisions for a public entity, often referred to as the “legislative body.” Governing bodies are subject to the Tennessee Open Meetings Law (requiring public notice and recording of minutes). Members are the individuals serving on the governing body.

**Guidelines** means the document adopted by the Tennessee State Funding Board providing statutorily required guidance on Interest Rate and Forward Purchase Agreements. The current version became effective November 1, 2009. The Guidelines are available on the internet at <http://tn.gov/comptroller/lf/pdf/SFB%20Guidelines%2010-9%20Final.pdf>

**Hedge** is an investment position intended to offset potential losses that may be incurred by a companion investment. A hedge can be constructed from many types of financial instruments, including stocks, ETFs, insurance, forward contracts, swaps, options, many types of over-the-counter and derivative products, and futures contracts.

**Interest Rate Swaps** is a financial derivative instrument in which two parties agree to exchange interest rate cash flows, based on a specified notional amount from a fixed rate to a floating rate (or vice versa) or from one floating rate to another. Interest rate swaps are commonly used for hedging.

**Interfund Loan** is, most simply, a borrowing between city funds, with or without an interest component. One fund swaps cash with another fund for some specified purpose, such as capital, operating or cash flow. The fund that received the cash repays it over time.

**Lender** means an individual or firm who loans a borrower money.

**Letter of Credit** is a binding document that a buyer can request from his bank in order to guarantee that the payment for goods will be transferred to the seller. Basically, a letter of credit gives the seller reassurance that he will receive the payment.

**Line of Credit** is an arrangement between a financial institution, usually a bank, and a customer that establishes a maximum loan balance that the bank will permit the borrower to maintain. The borrower can draw down on the line of credit at any time, as long as he or she does not exceed the maximum set in the agreement.

**Liquidity Provider** is an underwriter or a market maker that is a sizable holder of a given security or that facilitates the trading of the security. Core liquidity providers ideally bring greater price stability and distribute securities to both retail and institutional investors

**Maturity** in the financial realm is a date at which a financial agreement comes to a close. For example, debt maturity is the date on which a liability becomes due for payment.

**Open Market Securities** are debt securities that are traded in the bond secondary markets.

**Paying Agent** means an individual or firm that transfers the periodic interest and principal payments from the public entity to the investors.

**Private Placement** is the sale of securities to a relatively small number of select investors as a way of raising capital. Investors involved in private placements are usually large banks, mutual funds, insurance companies and pension funds. Private placement is the opposite of a public issue, in which securities are made available for sale on the open market.

**Professionals** means individuals or firms advising or offering to provide professional services to a public entity with respect to a finance transaction. Examples of professionals are:

**Public Entity** is a governmental organization or unit that has a legal existence and is authorized to borrow money or enter into debt. It includes the State, state agencies, local governments, local government instrumentalities, and any other authority, board, district, instrumentality, or entity created by the State, a state agency, local government, a local government instrumentality, or any combination of the above. It does not include legal entities without debt authority, such as a county school board; however, a special school district with debt authority is included.

**Refinancing** (or Refunding) is paying off an existing loan with the proceeds from a new loan, usually of the same size, and using the same property as collateral.

**Registrar** means the individual or firm responsible for maintaining a record or list of owners or investors in debt (sometimes referred to as holders of the debt).

**Remarketing Agent** means the firm responsible for reselling to new investors debt instruments that have been “tendered” for purchase by their holders. The remarketing agent is also usually responsible for resetting the interest rate for variable rate debt instruments.

**Risk** refers to the uncertainty (downside) involved in a debt transaction, including investment, business, credit, market, liquidity, operations, tax, and basis risks.

**Schedule** means the plan listing the amount and when debt service will be paid.

**Serial Debt** bonds have a series of maturity dates rather than a single maturity date.

**State Agency Loan Program** refers to programs offered by the state or state agencies, such as the State Revolving Loan Program offered by the Tennessee Local Development Authority or the Qualified School Construction Bond program offered by the Tennessee State School Bond Authority.

**State Funding Board** means the state entity whose members are the Governor, the Commissioner of Finance and Administration, the Comptroller, the State Treasurer, and the Secretary of State. The State Funding Board is created by Tennessee Code Annotated Section 9-9-101.

**Takedown** refers to how the bonds are retired over time.

**Term Debt** is a debt that is paid in one lump sum upon maturity.

**Underwriter** means the firm that buys new debt for reselling to the public for a profit. The underwriter may acquire the debt either through negotiation or by award on the basis of competitive bidding.

**Verification Agent** usually means a certified public accountant or other independent third party that determines that the cash flow from investments purchased with proceeds of a refunding debt issue, along with other money, will be sufficient to pay the refunded bonds.

**Zero Coupon Bond** (also called a discount bond or deep discount bond) is a bond bought at a price lower than its face value, with the face value repaid at the time of maturity. It does not make periodic interest payments, or have so-called "coupons," hence the term zero-coupon bond. When the bond reaches maturity, its investor receives its par (or face) value. Examples of zero-coupon bonds include U.S. Treasury bills and U.S. savings bonds.

# City of Oak Ridge, Tennessee Debt Management Policy

## **Introduction**

This Debt Management Policy (the “Debt Policy”) is a written guideline with parameters that affect the amount and type of debt that can be issued by the City of Oak Ridge, Tennessee (the “City”), the issuance process and the management of the City’s debt. The purpose of this Debt Policy is to improve the quality of management and legislative decisions and to provide justification for the structure of debt issuances consistent with the Debt Policy’s goals while demonstrating a commitment to long-term capital planning. It is also the intent of the City that this Debt Policy will signal to credit rating agencies, investors and the capital markets that the City is well managed and will always be prepared to meet its obligations in a timely manner. This Debt Policy fulfills the requirements of the State of Tennessee regarding the adoption of a formal debt management policy on or before January 1, 2012.

This Debt Policy provides guidelines for the City to manage its debt and related annual costs within both current and projected available resources while promoting understanding and transparency for our citizens, taxpayers, ratepayers, businesses, investors and other interested parties.

In managing its debt, it is the City's policy to:

- Achieve the lowest cost of capital within acceptable risk parameters.
- Maintain or improve credit ratings.
- Assure reasonable cost access to the capital markets.
- Preserve financial and management flexibility.
- Manage interest rate risk exposure within acceptable risk parameters

## **Definition of Debt**

All obligations of the City to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of City resources. This includes but is not limited to tax-exempt or taxable bonds, capital outlay notes, other notes, capital leases, and loans of any type whether from an outside source such as a bank or from another internal fund.

## **Goals and Objectives**

Debt policies and procedures are tools that ensure that financial resources are adequate to meet the City's long-term capital planning objectives. In addition, the Debt Policy helps to ensure that financings undertaken by the City have certain clear, objective standards that allow the City to protect its financial resources in order to meet its long-term capital needs.

The Debt Policy formally establishes parameters for issuing debt and managing a debt portfolio which considers the City's specific capital improvement needs; ability to repay financial obligations; and, existing legal, economic, and financial market conditions. Specifically, the policies outlined in this document are intended to assist in the following:

- To guide the City in policy and debt issuance decisions,
- To maintain appropriate capital assets for present and future needs,
- To promote sound financial management,
- To protect the City's credit rating,
- To ensure the City's debt is issued legally under applicable state and federal laws,
- To promote cooperation and coordination with other parties in the financing, and
- To evaluate debt issuance options.

### **Definition of Debt**

~~All obligations of the City to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of City resources. This includes but is not limited to tax exempt or taxable bonds, capital outlay notes, other notes, capital leases, and loans of any type whether from an outside source such as a bank or from another internal fund.~~

### **Authority and Approval**

- The City will only issue debt by utilizing the statutory authorities provided by *Tennessee Code Annotated* as supplemented and revised (“TCA”) and the Internal Revenue Code (the “Code”).
- The City will adhere to any lawfully promulgated rules and regulations of the State and those promulgated under the Code. Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller’s Office and the City Council prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the Comptroller’s Office prior to issuance. Capital or operating leases may be entered into by the City; with details on the lease agreement to be forwarded to the Comptroller’s Office as may be required.
- All debt will be formally authorized by resolution of the City Council as may be required by law.

### **Transparency**

- ~~• The City shall comply with legal requirements for notice and for public meetings related to debt issuance.~~

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- In the interest of transparency, All costs (including principal, interest, issuance, continuing, and one-time) shall be clearly presented and disclosed to the City Council, citizens, and other stakeholders in a timely manner.
- The terms and life of each debt issue shall be clearly presented and disclosed to the City Council, citizens, and other stakeholders in a timely manner.
- A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the City Council, citizens, and other stakeholders in a timely manner.
- The issuance of debt has various approvals and on occasion, written reports provided by the State of Tennessee Comptroller's office either prior to adoption of resolutions authorizing such debt, prior to issuance, and/or following issuance. The City shall provide the Tennessee Comptroller's office sufficient information on the debt to not only allow for transparency regarding the issuance, but also assuring that the Comptroller's office has sufficient information to adequately report or approve any formal action related to the sale and issuance of debt. The City will also make this information available to the City Council, citizens, and other stakeholders.
- The City will file its Comprehensive Annual Financial Report and any Continuing Disclosure document prepared by the City or its Dissemination Agent as may be required, and shall make available the same to all interested parties.

### **Credit Quality and Credit Enhancement**

The City's debt management activities will be conducted in order to maintain or receive the highest possible credit ratings. City Management in conjunction with any professionals that the City may chose to engage will be responsible for maintaining relationships and communicating with one or more rating agencies.

The City will consider the use of credit enhancements on a case-by-case basis, evaluating the economic benefit versus cost for each case. Only when clearly demonstrable savings can be shown shall an enhancement be considered. The City will consider each of the following enhancements as alternatives by evaluating the cost and benefit of such enhancements:

- Insurance – The City may purchase bond insurance when such purchase is deemed prudent and advantageous. The predominant determination shall be based on such insurance being less costly than the present value of the difference in the interest on insured bonds versus uninsured bonds.
- Letters of Credit – The City may enter into a letter-of-credit (“LOC”) agreement when such an agreement is deemed prudent and advantageous. The City or its professionals, if any, may seek proposals from qualified banks or other qualified financial institutions pursuant to terms and conditions that are acceptable to the City.

### **Affordability**

The City shall consider the ability to repay debt as it relates to the total budget resources, the wealth and income of the community, and its property tax base and other revenues available to

service the debt. The City may consider debt ratios and other benchmarks compared to its peers when analyzing its debt including materials published by the nationally recognized credit rating agencies. ~~In the absence of extraordinary circumstances, the City will seek to limit total outstanding debt obligations secured by the full faith and credit of the city that is outstanding at any one time to not more than ten percent (10%) of the total appraised valuation of all real property within the city limits, excluding overlapping debt, enterprise debt, and revenue debt.~~ The City's total outstanding debt obligation will be monitored and reported to the City Council on an annual basis through various schedules included in both the Comprehensive Annual Financial Report and Annual Budget. City Management shall monitor the maturities, terms, and conditions of all obligations to ensure compliance. City Management shall also report to the City Council any matter that adversely affects the credit or financial integrity of the City.

### Debt Structure

The City shall establish all terms and conditions relating to the issuance of debt and will invest all bond proceeds pursuant to the terms of its investment policy, if any. Unless otherwise authorized by the City, the following shall serve as the Debt Policy for determining structure.

#### Term

All capital improvements financed through the issuance of debt will be financed for a period not to exceed the useful economic life of the improvements and in consideration of the ability of the City to absorb such additional debt service expense. The term of debt shall be determined by, but not limited to, the economic life of the assets financed, conditions in the capital markets, the availability of adequate revenue streams to service the debt and the existing pattern of debt payable from such identifiable fund or enterprise activity, but in no event will the term of such debt exceed forty (40) years, as outlined in TCA.

Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the City will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management. Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence.

#### Capitalized Interest

From time to time, certain financings may require the use of capitalized interest from the date of issuance until the City is able to realize beneficial use and/or occupancy of the financed project. Interest may be capitalized through a period permitted by law.

#### Debt Service Structure

General Obligation debt issuance shall be planned to achieve relatively net level debt service or level principal amortization considering the City's outstanding debt obligations, while matching

debt service to the useful economic life of facilities. Absent events or circumstances determined by City Council, the City shall avoid the use of bullet or balloon maturities (with the exception of sinking fund requirements required by term bonds) except in those instances where such maturities serve to make existing overall debt service level or match specific income streams. Debt which is supported by project revenues and is intended to be self-supporting should be structured to achieve level proportional coverage to expected available revenues.

### Call Provisions

In general, the City's debt should include a call feature no later than ten (10) years from the date of delivery of the bonds. The City will avoid the sale of long-term debt which carries longer redemption features unless a careful evaluation has been conducted by City Management and/or professionals, if any, with respect to the value of the call option.

### Original Issuance Discount/Premium

Debt with original issuance discount/premium will be permitted.

### Deep Discount Bonds

Deep discount debt may provide a lower cost of borrowing in certain capital markets. City Management and/or professionals, if any, should carefully consider their value and effect on any future refinancing as a result of the lower-than-market coupon.

### Types and Limits of Debt

When the City determines that debt is appropriate, consideration of the security structure, duration, interest rate modes, zero coupon debt, and synthetic debt will be utilized to evaluate the type of debt to be issued.

### Security Structure

- General Obligation Bonds – The City may issue debt supported by its full faith, credit, and unlimited ad valorem taxing power (“General Obligation Debt”). General Obligation Debt shall be used to finance capital projects that do not have significant independent creditworthiness or significant on-going revenue streams or as additional credit support for revenue-supported debt, if such support improves the economics of the debt and is used in accordance with these guidelines.
- Revenue Debt – The City may issue debt supported exclusively with revenues generated by a project or enterprise fund (“Revenue Debt”), where repayment of the debt service

obligations on such revenue debt will be made through revenues generated from specifically designated sources. Typically, revenue debt will be issued for capital projects which can be supported from project or enterprise-related revenues.

- Capital Leases – The City may use capital leases to finance projects assuming City Management and/or professionals, if any, determine that such an instrument is economically feasible.

### Duration

- Long-Term Debt – The City may issue long-term debt when it is deemed that capital improvements should not be financed from current revenues or short-term borrowings. Long-term debt will not be used to finance current operations or normal maintenance. Long-term debt will be structured such that financial obligations do not exceed the expected useful economic life of the project(s) financed.
  1. *Serial and Term Debt*. Serial and Term Debt may be issued in either fixed or variable rate modes to finance capital infrastructure projects.
  2. *Capital Outlay Notes (“CONs”)*. CONs may be issued to finance capital infrastructure projects with an expected life up to twelve years.
  3. *Capitalized Leases*. Capitalized Leases may be issued to finance infrastructure projects or equipment with ~~an expected capitalized lease~~ life not greater than ~~its~~ the expected useful life of the projects or equipment.
- Short-Term Debt – Short-term borrowing may be utilized for:
  1. Financing short economic life assets;
  2. The construction period of long-term projects;
  3. For interim financing; or
  4. For the temporary funding of operational cash flow deficits or anticipated revenues subject to the following policies:
    - *Bond Anticipation Notes (“BANs”)*. BANs, including commercial paper notes issued as BANs, may be issued instead of capitalizing interest to reduce the debt service during the construction period of a project or facility. The BANs shall not mature more than 2 years from the date of issuance. BANs can be rolled in accordance with federal and state law. BANs shall mature within 6 months after substantial completion of the financed facility.
    - *Revenue Anticipation Notes (“RANs”) and Tax Anticipation Notes (“TANs”)*. RANs and TANS shall be issued only to meet cash flow needs consistent with a finding by bond counsel that the sizing of the issue fully conforms to federal IRS and state requirements and limitations.

- *Lines of Credit.* Lines of Credit shall be considered as an alternative to other short-term borrowing options. A line of credit shall only be structured to federal and state requirements.
- *Interfund Loans.* Interfund Loans shall only be used to fund operational deficiencies among accounts or for capital projects to be paid from current fiscal year revenues. Such interfund loans shall comply with state regulations and limitations.
- *Other Short-Term Debt.* Other Short-Term Debt including commercial paper notes, BANs, Capitalized Leases and CONs may be used when it provides an interest rate advantage or as interim financing until market conditions are more favorable to issue debt in a fixed or variable rate mode. The City will determine and utilize the most advantageous method for short-term borrowing. The City may issue short-term debt when there is a defined repayment source or amortization of principal.

### Interest Rate Modes

Debt will be issued with either a fixed, variable, or zero interest-bearing rate.

- Fixed Rate Debt – To maintain a predictable debt service schedule, the City may give preference to debt that carries a fixed interest rate.
- Variable Rate Debt – The targeted percentage of net variable rate debt outstanding (~~excluding an amount of debt considered to be naturally hedged to short-term assets in the Unassigned General and/or Debt Service Fund Balance~~) shall not normally exceed 35% of the City's total outstanding debt and will take into consideration the amount and investment strategy of the City's operating cash.

~~The following circumstances may result in the consideration of issuing variable rate debt:~~

- ~~1. Asset-Liability Matching;~~
- ~~2. Construction Period Funding;~~
- ~~3. High Fixed Interest Rates. Interest rates are above historic averages;~~
- ~~4. Diversification of Debt Portfolio;~~
- ~~5. Variable Revenue Stream. The revenue stream for repayment is variable and is anticipated to move in the same direction as market-generated variable interest rates or the dedication of revenues allows capacity for variability; and~~
- ~~6. Adequate Safeguard Against Risk. Financing structure and budgetary safeguards are in place to prevent adverse impacts from interest rate shifts such structures could include, but are not limited to, interest rate caps and short-term cash investments in the City's General Fund.~~

An analysis by City Management and/or professionals, if any, shall be conducted to evaluate and quantify the risks and returns associated with the variable rate debt including, but not limited to, a recommendation regarding the use of variable rate debt. The City Council will be informed of

any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations prior to entering into any variable debt obligation. Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider or by a letter of credit provider, the City Council shall also be informed of the potential ~~affect~~-effect on rates as well as any additional costs that might be incurred should either the insurance or letter of credit fail, respectively. The City will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration

Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The City may use its General Obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the City. The City Council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the City's General Fund.

### Zero Coupon Debt

Zero Coupon Debt may be used if an analysis has been conducted by City Management and/or professionals, if any, and the risks and returns associated with the Zero Coupon Debt have been made. The analysis shall include, but not be limited to a recommendation regarding the use of Zero Coupon Debt as the most feasible instrument considering available revenues streams, the need for the project and other factors determined by City Council

### Synthetic Debt

The City will not enter into any new interest rate swaps or other derivative instruments unless it adopts a Debt Derivative Policy consistent with the requirements of TCA and only after approval of the State Comptroller's office and affirmative action of City Council.

### Costs of Debt

- All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the City Council in accordance with the notice requirements stated above.
- In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.
- Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e. General Obligations bonds in context of the General Fund, Revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes).

### Refinancing Outstanding Debt

City Management, in conjunction with professionals, if any, shall have the responsibility to analyze outstanding debt for refunding opportunities. The decision to refinance must be explicitly approved by City Council, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations. City Management will consider onerous restrictions, restructuring for economic purposes, term, escrow saving, and arbitrage when analyzing possible refunding opportunities.

- Onerous Restrictions – Debt may be refinanced to eliminate onerous or restrictive covenants or restrictions contained in existing debt documents.
- Restructuring for Economic Purposes – The City may also refund debt when it is in its best financial interest to do so. Such a refunding will be limited to restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, release reserve funds, or any other reason approved by City Council in its discretion.
- Term of Refunding Issues – Normally, the City will refund debt equal to or within its existing term. However, City Management may consider maturity extension, when necessary to achieve desired outcomes, provided that such extension is legally permissible and it is approved by the City Council. City Management may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful economic life of the financed facility and the concept of inter-generational equity should guide these decisions.
- Escrow Structuring – The City shall utilize the least costly securities available in structuring refunding escrows. ~~In the case of open market securities, a certificate will be provided by a third party agent, who is not a broker-dealer stating that the securities were procured through an arms-length, competitive bid process, that such securities were more cost-effective than State and Local Government Obligations (SLGS), and that the price paid for the securities was reasonable within Federal guidelines. In cases where taxable debt is involved, City Management, with the approval of bond counsel, may make a direct purchase as long as such purchase is the most efficient and least costly. Under no circumstances shall an underwriter, agent or any professionals sell escrow securities involving tax-exempt debt to the City from its own account.~~
- Arbitrage – The City shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. The City shall take all necessary steps to optimize escrows and to avoid negative arbitrage in its refunding. Any positive arbitrage will be rebated as necessary according to Federal guidelines.

### Methods of Issuance

City Management may consult with a professional regarding the method of sale of debt. Subject to approval by City Council, City Management will determine the method of issuance of debt on a case-by-case basis consistent with the options provided by prevailing State law.

### Competitive Sale

In a competitive sale, the City's debt will be offered in a public sale to any and all eligible bidders. Unless bids are rejected, the debt shall be awarded to the bidder providing the lowest true interest cost as long as the bid adheres to the requirements set forth in the official notice of sale.

In a competitive sale, a financial advisor shall not be permitted to bid on an issue for which they are, or have been providing, advisory services for the issuance, unless otherwise authorized by applicable law and regulation.

### Negotiated Sale

The City recognizes that some securities are best sold through a negotiated sale with an underwriter or group of underwriters. The City shall assess the following circumstances in determining whether a negotiated sale is the best method of sale:

- State requirements on negotiated sales;
- Debt structure which may require a strong pre-marketing effort such as those associated with a complex transaction generally referred to as a "story" bond;
- Size or structure of the issue which may limit the number of potential bidders;
- Market conditions including volatility wherein the City would be better served by the flexibility afforded by careful timing and marketing such as is the case for debt issued to refinance or refund existing debt;
- Whether the debt is to be issued as variable rate obligations or perhaps as Zero Coupon Debt;
- Whether an idea or financing structure is a proprietary product of a single firm;
- In a publicly offered or privately placed, negotiated sale, a financial advisor, if any, shall not be permitted to privately place or underwrite an issue for which they are, or have been providing, advisory services for the issuance; and
- If there is an underwriter, the City shall require the underwriter to clearly identify itself in writing (e.g., in a response for request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the City with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's length commercial transaction and that it has financial and other interests that differ from those of the City. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the City in advance of the pricing of the debt.

### Private Placement

From time to time, the City may elect to privately place its debt. Such placement shall only be considered if this method is demonstrated to be advantageous to the City.

### Professional Services

As needed, the City may select professionals to assist in its debt issuance and administration processes. In selecting professionals, consideration should be given with respect to:

- Relevant experience with municipal government issuers and the public sector;
- Indication that the firm has a broadly based background and is therefore capable of balancing the City's overall needs for continuity and innovation in capital planning and debt financing;
- Experience and demonstrated success as indicated by its experience;
- The firm's professional reputation;
- Professional qualifications and experience of principal employees; and
- The estimated costs, but price should not be the sole determining factor.

The City shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the City and the lender or conduit issuer, if any. This includes “soft” costs or compensations in lieu of direct payments.

- **Counsel:** The City shall enter into an engagement letter agreement with each lawyer or law firm representing the City in a debt transaction. No engagement letter is required for any lawyer who is an employee of the City or lawyer or law firm which is under a general appointment or contract to serve as counsel to the City. The City does not need an engagement letter with counsel not representing the City, such as underwriters’ counsel.
- **Financial Advisor:** The City shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions.

### **Conflicts**

- Professionals involved in a debt transaction hired or compensated by the City shall be required to disclose to the City existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the City to appreciate the significance of the relationships.
- Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

### **Compliance**

### Continuing Annual Disclosure

Normally at the time debt is delivered, the City will execute a Continuing Disclosure Certificate in which it will covenant for the benefit of holders and beneficial owners of the publically traded debt to provide certain financial information relating to the City by not later than twelve months after each of the City's fiscal years, (the "Annual Report" and provide notice of the occurrence of certain enumerated events). The Annual Report will be filed with the MSRB through the operation of the Electronic Municipal Market Access system ("EMMA") and any State Information Depository established in the State of Tennessee (the "SID"). If the City is unable to provide the Annual Report to the MSRB and any SID by the date required, notice of each failure will be sent to the MSRB and any SID on or before such date. The notices of certain enumerated events will be filed by the City with the MSRB through EMMA and any SID. The specific nature of the information to be contained in the Annual Report or the notices of significant events is provided in each Continuing Disclosure Certificate. These covenants are made in order to assist underwriters in complying with SEC Rule 15c2-12(b) (the "Rule").

### Arbitrage Rebate

The City will also maintain a system of record keeping and reporting which complies with the arbitrage rebate compliance requirements of the Internal Revenue Code (the "Code").

### Records

The City will also maintain records required by the Code including, but not limited to, all records related to the issuance of the debt including detailed receipts and expenditures for a period up to 6 years following the final maturity date of the debt or as required by the Code.

### Debt Policy Review

The guidelines outlined herein are only intended to provide general ~~direction-guidance~~ regarding procedures for the future issuance of debt. The City maintains the right to modify this Debt Policy and may make exceptions to any of its guidelines at any time to the extent that the execution of such debt achieves the goals of the City as long as such exceptions or changes are consistent with TCA and any rules and regulations promulgated by the State.

The City Manager or his designee is responsible for ensuring substantial compliance with this Debt Policy.

References: TCA 9-21-151

NUMBER \_\_\_\_\_

**RESOLUTION**

A RESOLUTION TO ADOPT A DEBT MANAGEMENT POLICY AS REQUIRED BY THE TENNESSEE STATE FUNDING BOARD.

WHEREAS, Tennessee Code Annotated §9-21-151(b)(1) authorizes the State Funding Board to develop model financial transaction policies for local governments; and

WHEREAS, the State Funding Board has adopted a statement on debt management and directed local governments and government entities that borrow money to draft their own debt management policies with certain mandatory provisions; and

WHEREAS, City Staff proposes a debt management policy that includes the mandatory provisions relative to transparency, professionals, and conflicts; and

WHEREAS, the City Manager recommends adoption of the Debt Management Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the attached Debt Management Policy is hereby adopted in accordance with the directives of the State Funding Board.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

**LEGAL DEPARTMENT MEMORANDUM**  
**11-41**

DATE: November 3, 2011  
TO: Honorable Mayor and Members of City Council  
FROM: Kenneth R. Krushenski, City Attorney  
SUBJECT: CAROLINA TRANSFORMER SETTLEMENT

An item on the November 14, 2011 agenda is a resolution approving a settlement in the amount of \$44,000.00 with the Carolina Transformer Contribution Action Plaintiffs (CT CAP) whose attorney of record in this claim is Bryan Brice. The attached Electric Department Memorandum No. 11-20 sets out the details of the City's involvement in the Carolina Transformer (CT CAP) claims. The claim made against the City of Oak Ridge is a result of a Decree entered on September 24, 2008 in the U.S. District Court for the Eastern District of North Carolina which was executed by the United States Environmental Protection Agency (EPA) and the CT CAP which settled the matter captioned *United States of American and the State of North Carolina v. Albemarle Electric Membership Corporation et. al Civil Action No. 5:08-CV-00261* (the "Carolina Transformer Superfund Litigation.") The claims were settled for \$13,200,000.00.

The City of Oak Ridge has been identified as a Potentially Responsible Party (PRP) by the CT CAP. The original Claim for Contribution against the City of Oak Ridge made by the CT CAP was \$90,000.00 in November of 2007. At this time, the Law Firm of Kutak Rock was under contract with the City to review environmental issues so they were requested to investigate the claims made by the CT CAP. After initial contact was made by Barry Steinberg of Kutak Rock, the CT CAP attorneys discontinued settlement demands and no court action was filed against the City.

This matter remained inactive until July 26, 2011 when the City of Oak Ridge Public Works Department was contacted by Counsel for the CT CAP. The firm of Kutak Rock was once again engaged to assist the City in resolving the renewed demand which was now set at \$101,000.00 by the attorneys for CT CAP. After discussions between the CT CAP attorneys and Barry Steinberg, the Plaintiffs agreed to drop the demand to \$44,000.00, and not file suit against the City in Federal Court in North Carolina.

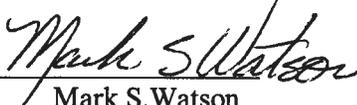
Based upon the cost of litigation in another state including travel expenses, City staff time, and the potential liability of the City of Oak Ridge under Federal law, the Legal Department recommends approval of the attached resolution.

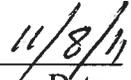
  
\_\_\_\_\_  
Kenneth R. Krushenski

cc: Mark S. Watson, City Manager

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson

  
Date

**ELECTRIC DEPARTMENT MEMORANDUM**  
**11-20**

DATE: October 21, 2011

To: Ken Krushenski, City Attorney

From: Jack L. Suggs, Electrical Director

SUBJECT: CAROLINA TRANSFORMERS HISTORY SYNOPSIS

On November 9, 2006, the City of Oak Ridge received notice from the Carolina Transformer Potentially Responsible Party Group (PRP Group) Steering Committee that the United States Environmental Protection Agency (EPA) was taking action regarding a former transformer scrap and repair yard that had operated under the names "Faytranco" and "Carolina Transformer Company," hereinafter referred to as "Carolina Transformer."

Carolina Transformer operated between 1959 and 1984. Attachment A provides detailed information regarding the site and its remediation. The information was taken from the website EPA.GOV.

According to the group, EPA was attempting to recover \$31.2 million from a set of 29 PRP's. The City was offered a chance to join the group and participate in the settlement with EPA, under the threat that should the City not join the group, the group would sue for recovery of a portion of the fine levied against them by EPA. The City was contacted again by the PRP group in March and November of 2007, and in this latter letter stated that they had settled with EPA for \$9.9 million.

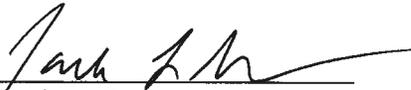
The City had on two previous occasions been approached directly by the EPA regarding transformer disposal sites, but in both occasions had been able to demonstrate to the EPA that we had no contribution to the sites in question. In this case, however, records were located indicating that a small number of transformers had in fact been sent to Carolina Transformer during the 1970's and 1980's.

After consultation with the City Attorney, the decision was reached not to join the PRP Group. It was believed that the contribution to the site by the City was so small that taking some share of the original EPA levy would be disadvantageous.

The issue lay dormant until July 26, 2011 when Mr. Randall Lutz, an attorney with the firm of Saul Wing, who represents the PRP Group contacted the City and offered a settlement opportunity. In that letter, Mr. Lutz referred to another letter dated May 20, 2011; but the Electric Department is unaware of this letter.

In any event, the letter represented a demand for settlement for an unknown amount (supposedly named in the May 20 letter), and stated flatly that the firm was preparing to file suit for recovery if a settlement was not reached. It is my understanding that a settlement amount of approximately \$44,000 was proposed by the PRP lawyers. This is substantially less than I had anticipated was possible through negotiation.

I have asked other utilities in the past about their experience in these types of matters. It is my opinion, based on those conversations, that the \$44,000 represents a good value and fair settlement for the City and I would recommend to the City Manager that the Council approve the same.

  
\_\_\_\_\_  
Jack L. Suggs  
Electrical Director

cc: Mark S. Watson, City Manager

# Attachment A: EPA Summary of the Carolina Site

## Carolina Transformer Company

### Site Summary Profile

**EPA ID:** NCD003188844

**Location:** Fayetteville, Cumberland County, NC

**Lat/Long:** 35.063330, -078.845000

**Congressional District:** 07

**NPL Status:** Proposed: 01/22/87; Final: 07/22/87

**Affected Media:** Debris, Ground water, Sediment, Soil

**Cleanup Status:** Construction Complete - Physical cleanup activities have been completed.

**Site Reuse/Redevelopment:** Potential for commercial/light industrial

**Site Manager:** [Luis Flores](mailto:flores.luis@epa.gov) (flores.luis@epa.gov)

### Site Background

The 5-acre Carolina Transformer site is located in Fayetteville, Cumberland County, North Carolina. From 1967 to 1982, the Carolina Transformer Company (CTC) operated an electrical transformer rebuilding and repair facility at the site. During that period CTC also operated as a polychlorinated biphenyl (PCB) storage and disposal site for owners of PCB transformers and/or PCB articles. Improper storage, management, and disposal practices led to soil and ground water contamination with PCBs.

### Threats and Contaminants

In addition to PCB-contamination of soil and ground water, volatile organic compounds (VOCs) were also detected in ground water. The site is situated at the headwater of an unnamed tributary less than two miles from the Cape Fear River. An estimated 3,000 people reside within a 3-mile radius of the site.

### Site Cleanup Plan

The Record of Decision (ROD) for the site was issued in 1991. Major cleanup elements for the site included:

Excavation of the contaminated soil with PCBs in excess of one part per million (ppm).

Use of a solvent extraction process to separate organic contaminants such as PCB, dioxin/furans, volatile organic compounds (VOCs), and polynuclear aromatic hydrocarbons (PAHs) from the soil and sediments. The process will convert inorganic contaminants such as lead and copper to lower solubility hydroxides thereby reducing their mobility.

Demolition of the roofs and walls of the three on-site buildings. The debris will be crushed and transported to an off-site landfill along with any solid waste. If the remaining slabs are found to be contaminated with PCBs in excess of 10 ug/100 cm<sup>2</sup> they will be treated with a solvent washing system to extract the residual PCBs.

Installation of ground water extractions wells, and use of a two component treatment system (metals removal, adsorption) to remove the metals and organic

contaminants. The operation of the system would continue until the ground water meets the remediation goals.

### **Cleanup Progress**

In 1984, EPA removed 975 tons of contaminated soil, transported it to a federally approved facility, and then fenced the area. Residents with contaminated ground water were connected to the public water supply.

A remedial design including a solvent extraction system to treat PCB-contaminated soil and a pump-and-treat system to treat contaminated ground water was completed in 1996. Remedial activities began in 1999 and all soil cleanup activities were completed in September 2003.

In August 2005, an amendment to the 1991 ROD was signed to change the ground water remedy to monitored natural attenuation, or the use of natural processes to reduce contamination.

Site cleanup activities are being led primarily by EPA.

### **Enforcement Activities**

In 1984, EPA issued a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 106 Administrative Order requiring Carolina Transformer to remove and properly dispose of the contaminated soil. After the company refused, EPA began to clean up the site in August 1984 using CERCLA emergency funds.

### **Community Involvement**

EPA has conducted a range of community involvement activities at the Carolina Transformer site to solicit community input and to ensure that the public remains informed about site activities throughout the site cleanup process. Outreach activities have included public notices and public meetings on cleanup activities and updates.

### **Future Work**

Annual ground water monitoring events are ongoing.

### **Site Administrative Documents**

#### **Site Repository**

For more information or to view any site-related documents, please visit the site information repository at the following location. As new documents are generated, they will be placed in the information repository for public information.

Cumberland County Public Library

300 Maiden Lane

Fayetteville, NC 28301

**RESOLUTION**

A RESOLUTION APPROVING A SETTLEMENT IN THE AMOUNT OF \$44,000.00 WITH CAROLINA TRANSFORMER CONTRIBUTION ACTION PLAINTIFFS.

WHEREAS, on November 9, 2006, the City received notice from the Carolina Transformer Potentially Responsible Party Group (PRP Group) Steering Committee that the United States Environmental Protection Agency (EPA) was taking action regarding a former transformer scrap and repair yard; and

WHEREAS, the City elected not to join the PRP Group believing any contribution to the site by the City was minimal and it would be disadvantageous to share the original EPA levy against the group which amounted to \$13,200,000.00; and

WHEREAS, the City has been identified as a potentially responsible party by the Carolina Transformer Contribution Action Plaintiffs and recent communication by their legal counsel has resulted in a demand against the City in the amount of \$101,000.00; and

WHEREAS, the City's legal counsel for this matter, Kutak Rock, has negotiated a settlement in the amount of \$44,000.00 to avoid federal litigation, which settlement the City Attorney and City Manager recommend.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Attorney and City Manager is approved and the City hereby agrees to pay \$44,000.00 to settle the demands made by the Carolina Transformer Contribution Action Plaintiffs and avoid federal litigation.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney

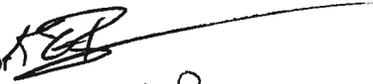
\_\_\_\_\_  
Thomas L. Beehan, Mayor

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Diana R. Stanley, City Clerk

**COMMUNITY DEVELOPMENT MEMORANDUM**  
**11-71**

DATE: November 1, 2011

TO: Mark S. Watson, City Manager

THROUGH: Kathryn G. Baldwin, Community Development Director 

FROM: Athanasia Senecal Lewis, Community Development Specialist 

SUBJECT: **NOT IN OUR CITY PROGRAMS 1-7**

An item for the November City Council agenda is adoption of a resolution that approves seven of the eight *Not in Our City* initiatives. A separate resolution will be submitted for the Residential Properties Utility Program. The *Not in Our City* Campaign emerged from an on-going conversation about local housing and housing-related issues. In June 2010, the City hosted a Housing Summit titled, *Housing: Identifying a Path Forward*. Since then, under the leadership of City Manager Mark Watson, city staff has been working on a *Not in Our City* plan to address drugs and crimes, eliminate blighted residential structures, improve housing conditions, and make Oak Ridge a better place to live and invest.

The *Not In Our City* initiatives are:

- Neighborhood Watch Program (NWP)
- Cleanup Container Program
- Top 5 List of Blighted Properties; 5 Most Improved
- Policies & Ordinances
- Community Development Housing Initiative
- Administrative Hearing Officer
- Land Bank Program
- Residential Properties Utility Program

*The Neighborhood Watch Program (NWP)* is a partnership between residents and the Oak Ridge Police Department to proactively prevent crime. With the current program, residents are encouraged to monitor and report suspicious activity. Under the *Not in Our City* plan, staff is proposing amendments to the existing program to include training for NWP block captains to better assess neighborhood housing and environmental problems and expedite appropriate action.

*The Cleanup Container Program*, already underway, allows groups and organizations to reserve a 30-cubic yard roll-off container to dispose of many unwanted materials. Reservations are made through the Public Works Department for the weekend (drop off on Friday and pick up on Monday); however, special arrangements can be made. A list of acceptable and unacceptable materials is published on the Public Works departmental website. This program has been well received, with three reservations having been made to date.

*The Top 5 List of Blighted Properties & 5 Most Improved Program* consists of posting on the Oak Ridge City website the five most blighted properties and the five most improved properties monthly. The properties will be selected from cases brought to the Oak Ridge City Court and the Board of Building and Housing Code Appeals.

*The Policies & Ordinances Program* was created to modify and/or update the City's ordinances with specific focus on parking and environmental concerns. City staff is proposing an ordinance to address numerous issues expressed for commercial/oversized vehicles, recreational vehicles, and utility trailers parking in on-street parking spaces. These vehicles create parking shortages for personal vehicles, sight distance issues, and many are not operational. Additionally, city staff is proposing an ordinance pertaining to parking on private property to address concerns regarding parking in front and side yards, while permitting specific, temporary parking needs. The goal of these companion ordinances is to ensure



**RESOLUTION**

A RESOLUTION TO ADOPT THE *NOT IN OUR CITY* CONCEPTUAL PLAN TO ADDRESS DRUGS AND CRIME, IMPROVE HOUSING, AND MAKE OAK RIDGE A BETTER PLACE TO LIVE AND INVEST.

WHEREAS, in June 2010 the City hosting a Housing Summit (Housing: Identifying a Path Forward) to discuss how to join forces, eliminate duplication of efforts, and establish a path forward in addressing housing needs in Oak Ridge; and

WHEREAS, under the leadership of the City Manager, City Staff has been working on a *Not in Our City* initiative to address drugs and crime, improve housing, and make Oak Ridge a better place to live and invest; and

WHEREAS, a *Not in Our City* plan consisting of various initiatives has been developed with a phased implementation approach; and

WHEREAS, the City Manager recommends adoption of the *Not in Our City* plan.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the *Not in Our City* conceptual plan is hereby adopted.

BE IT FURTHER RESOLVED that the *Not in Our City* conceptual plan consists of the following seven initiatives: partnership with the Neighborhood Watch Program to proactively prevent crime; implementation of the Cleanup Container Program to proactively clean up neighborhoods; establish and publish a list of the Top Five Blighted Properties and Top Five Most Improved Properties on a monthly basis; propose amendments to the various city codes regarding parking and environmental concerns as part of the Policies & Ordinances Program; restructure the department to concentrate on housing initiatives as part of the Community Development Housing Initiative; establish an Administrative Hearing Officer position to hear building and property maintenance code violations; and establish a Land Bank Program to reclaim unused, vacant, and/or undesirable land for potential housing opportunities or public use.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

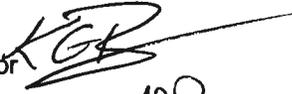
\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

**COMMUNITY DEVELOPMENT MEMORANDUM**  
**11-72**

DATE: November 1, 2011

TO: Mark S. Watson, City Manager

THROUGH: Kathryn G. Baldwin, Community Development Director 

FROM: Athanasia Senecal Lewis, Community Development Specialist 

SUBJECT: **NOT IN OUR CITY RESIDENTIAL PROPERTIES UTILITY PROGRAM (#8)**

An item for the November City Council agenda is adoption of a resolution that approves the *Residential Properties Utility Program*, an initiative of the *Not in Our City* campaign. The *Not in Our City* plan consists of eight programs. This memorandum addresses item #8: the *Residential Properties Utility Program*. A separate resolution for the other seven programs is also included on the November 14<sup>th</sup> agenda. The *Not in Our City* initiative emerged from an on-going conversation regarding local housing and housing-related issues. In June 2010, the City hosted a Housing Summit titled, *Housing: Identifying a Path Forward*. Since then, under the leadership of City Manager Mark Watson, city staff has been working on a *Not in Our City* plan to address drugs and crimes, improve housing, and make Oak Ridge a better place to live and invest.

The *Residential Properties Utility Program* is an inspection program that establishes firmer guidelines for properties that have a change in ownership and/or occupancy. City staff is proposing using Housing and Urban Development (HUD) Housing Choice Program guidelines and associated forms for instituting minimum standards that must be met prior to establishment of a utility account.

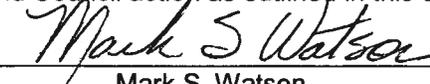
Under the *Residential Properties Utility Program*, property owners will be required to submit an inspection form that meets the Housing Choice Program guidelines. Inspections to ensure compliance will be performed by Code and Fire Department staff. Initial inspections will be performed free of charge; any subsequent inspections will generate a fee, which will be increased if compliance is not met. Utility accounts will be established upon successful passage of a housing inspection. Home owners will have the option to have an inspection conducted by a licensed home inspector and they can submit the inspection form to the City.

The program will also incorporate notification of the smoke testing results for private sewer laterals recently completed by the Public Works Department. In the event a property has failed the smoke test, notice will be provided to the property owner and officially recorded in the Register of Deeds office. Once notified, residential sewer laterals must be upgraded prior to the next change of occupancy or the year 2015, whichever event occurs first. This action will serve to officially notify the property owner without delaying an owner or tenant occupying the property. However, pending official notification, compliance is expected to be attained shortly thereafter, especially in properties which have a high rate of turnover.

Staff is proposing the *Residential Properties Utility Program* be piloted in the Highland View Redevelopment District and later to expand across the City. This is a program that will require extensive coordination of city staff, creation of a data base with easy information retrieval and extensive interaction with the public. We would like to initiate the program in a small geographic area to build an efficient methodology and hone the skills necessary to implement a successful program.

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson      11/8/11  
Date

**RESOLUTION**

A RESOLUTION TO ADOPT AN ADDITIONAL INITIATIVE – THE RESIDENTIAL PROPERTIES UTILITY PROGRAM – AS PART OF THE *NOT IN OUR CITY* CONCEPTUAL PLAN.

WHEREAS, by Resolution 11-\_\_-11, City Council adopted the *Not in Our City* conceptual plan to address drugs and crime, improve housing, and make Oak Ridge a better place to live and invest; and

WHEREAS, the *Not in Our City* conceptual plan consists of seven initiatives: Neighborhood Watch Program, Cleanup Container Program, Top Five Blighted Properties and Top Five Most Improved Properties Program, Policies & Ordinances Program, Community Development Housing Initiative, Administrative Hearing Officer Program, and Land Bank Program; and

WHEREAS, an additional initiative – the Residential Properties Utility Program – has been developed for implementation as part of the *Not in Our City* conceptual plan; and

WHEREAS, the Residential Properties Utility Program establishes firmer guidelines for properties upon a change in ownership or occupancy requiring minimum standards prior to establishment of a utility account; and

WHEREAS, those standards include an inspection meeting the Housing and Urban Development (HUD) Housing Choice Program guidelines and a notification process for the smoke test results for private sewer laterals recently conducted by the Public Works Department; and

WHEREAS, City Staff proposes to implement the Residential Properties Utility Program in the Highland View Redevelopment District initially to build an efficient methodology for implementation prior to expansion of the citywide program; and

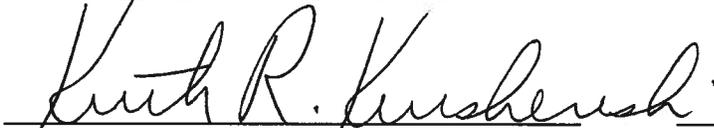
WHEREAS, the City Manager recommends adoption of the Residential Properties Utility Program as part of the *Not in Our City* conceptual plan.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the Residential Property Utility Program is hereby adopted as part of the *Not in Our City* conceptual plan.

This the 14th day of November 2011.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney

Thomas L. Beehan, Mayor

Diana R. Stanley, City Clerk

**PUBLIC HEARING  
AND  
FIRST READING  
OF  
ORDINANCES**

**COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM**  
**11-73**

DATE: November 3, 2011

TO: Mark S. Watson, City Manager

THROUGH: Kathryn Baldwin, Community Development Director *KEB*

FROM: Kahla Gentry, Senior Planner *KA*

SUBJECT: **Amendment of Woodland Town Center PUD**

An item for the City Council agenda is a request to amend the Woodland Town Center PUD by amending certain designations which characterize fast food restaurants. The recommended amendment is to replace the condition that delivery of food service must be within the interior of the restaurant and the prohibition of restaurants which have drive-through service or drive-up service which allows ordering from a vehicle. The condition prohibiting drive-through or drive-up service is to be replaced by prohibiting fast food/quick service restaurants defined as:

1. The total square footage of the building is less than 3,500 square feet.
2. The total seating capacity is less than 100 persons.
3. Food and beverages are served solely in disposable containers.

The proposed amendment reflects changing trends in the restaurant trade and the need for greater flexibility in providing attractive sites for restaurant development. The proposed amendment is meant to allow greater flexibility for development while maintaining the intent of providing a higher than average standard of development for the Woodland Town Center. Fast food restaurants, also known as quick service restaurants, are typified by having a limited, low-cost menu with a high percentage of their customers using the drive-through service and thus fast food restaurants generally have a smaller footprint and less area devoted to seating.

As an added convenience to customers, restaurants that typically have not had drive-through or pick-up service are beginning to add this service; however, they maintain their orientation towards the on-site dining experience by providing a greater percentage of their space to the seating area and also by using non-disposable dishware. This new trend relates to the most recent and fastest growing concept in the restaurant industry referred to as fast casual restaurants. Fast casual restaurants are generally defined by:

- Limited service or self-service format that may include drive-through service
- Average meal price between \$8 - \$15
- Made to order food with more complex flavors than fast food restaurants
- Targeted towards adults

Upscale or highly developed décorThe PUD amendment is intended to allow for restaurants that provide drive-through service, but retain a higher character and quality of development than the typical fast food/quick service restaurant as reflected in the size and architectural features of the building and in the details of site development.

As previously approved, the Woodland Town Center site will have a masonry wall with landscaping along South Purdue Avenue, providing an effective and attractive buffer between the commercial development and the residential neighborhood.

Staff recommends approval of the Woodland Town Center PUD amendment in order to provide greater opportunity for economic development while maintaining quality standards for such development.

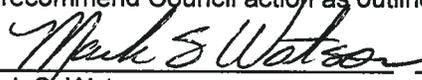
Community Development Memorandum 11-73  
November 3, 2011

  
Kahla Gentry

Attachment

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson      11/8/11  
Date



Limited-Service, Unlimited Possibilities

FREEDOM *and* EFFICIENCY.*It's a Beautiful Thing.*

November 4, 2011

[INDUSTRY NEWS /NEWS](#) | January 13, 2010

## Is the Definition of 'Fast Food' Changing?

Bookmark/Share this post with:

Consumers' perception of fast food is no longer confined to quick service, drive-thru restaurants, and convenience stores. Instead, a dual concept has emerged, consisting of traditional fast food, and of "food fast," served quickly with a greater emphasis on flavor, quality, and ambiance. A significant percentage of consumers (41 percent) are reporting that their idea of places offering "fast food" has expanded recently to include fast-casual restaurants such as Panera and full-service restaurants offering carryout and curbside service.

"As Americans continue to trade down from full-service concepts, more restaurants are competing for the 'fast food/food fast' customer," says Darren Tristano, executive vice president at Technomic, a foodservice industry consultant. "Both quick-service and fast-casual restaurants are borrowing elements from the other to drive traffic. This represents a host of challenges to operators rethinking their brands. Understanding consumers' changing perceptions of fast food, as well as competitors' responses, will be central to success."

The findings are part of Technomic's *Status and Future of Fast Foods: Consumer Trend Report*, which looks at how consumers are seeking faster, more convenient service from all types of foodservice establishments, including convenience stores, food trucks, and grocers offering retail meal solutions.

Some trends examined in this report include: upscaling in limited-service restaurant formats; the development of bustling social settings within contemporary interior spaces; introduction of price-driven value elements into fast-casual restaurant menus; broadening of full-service restaurants' service formats to include convenience-oriented platforms like call-ahead and text/online ordering, home delivery, and curbside pickup; and appearance in big-city markets of revitalized food trucks,

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[Menu Development \(/category/microsites/menu-development\)](#)

offering upscale and gourmet "street food." Nearly half of consumers (49 percent) say they eat at fast-food restaurants at least once a week; about one fifth of consumers said the same for fast-casual (16 percent) and full-service (20 percent) restaurants. One out of four consumers (24 percent) say they've increased their visits to fast-food restaurants in the past year, higher than for any other restaurant segment. Roughly half of consumers (52 percent) say that a fast-food meal should be delivered within five minutes; consumers are willing to wait somewhat longer for items they perceive as "food fast." About a third of consumers say they would like to see dedicated take-out areas at fast-food (32 percent) and fast-casual (33 percent) restaurants.

Efficient ordering and carryout options at full-service restaurants have strong appeal. Call-ahead ordering for pickup, separate take-out stations, and curbside service interest 40 percent, 37 percent, and 31 percent of consumers, respectively.

The *Status and Future of Fast Foods: Consumer Trend Report* was designed to assist foodservice operators and suppliers in understanding consumer perception and patronage of fast-food and food-fast concepts, and to provide a consumer-oriented account of the status and future of fast foods. It

**TITLE**

AN ORDINANCE TO AMEND A USE RESTRICTION REGARDING FAST FOOD RESTAURANTS IN WOODLAND TOWN CENTER PLANNED UNIT DEVELOPMENT PLAN, WHICH FRONTS ON SOUTH ILLINOIS AVENUE AND BACKS UP TO SOUTH PURDUE AVENUE BISECTED BY QUINCY DRIVE ACROSS FROM THE FORMER DEAN STALLINGS FORD SITE, WITH NO CHANGE TO THE ZONING DISTRICT WHICH REMAINS UB-2/PUD, UNIFIED GENERAL BUSINESS WITH A PLANNED UNIT DEVELOPMENT DISTRICT OVERLAY.

WHEREAS, the following change has been submitted for approval or disapproval to the Oak Ridge Municipal Planning Commission and the Commission has (intentionally left blank) the same; and

WHEREAS, a public hearing thereon has been held as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE TENNESSEE:

Section 1. That Woodland Town Center Planned Unit Development is hereby amended to delete the use restriction stating "delivery of food service must be within the interior of the restaurant and restaurants were prohibited which had drive-through service or drive-up service which allows ordering from a vehicle" and replace it with the following use restriction: "fast food/quick service restaurants are prohibited and are defined as follows: (1) the total square footage of the building is less than 3,500 square feet, (2) the total seating capacity is less than 100 persons, and (3) food and beverages are served solely in disposable containers."

Section 2. This amendment to the Woodland Town Center Planned Unit Development does not change the overall zoning district which will remain UB-2/PUD, Unified General Business with a Planned Unit Development Overlay.

Section 3. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

Public Hearing: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
First Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

**COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM**  
**11-74**

DATE: November 2, 2011

TO: Mark S. Watson, City Manager

THROUGH: Kathryn Baldwin, Community Development Director *KEB*

FROM: Kahla Gentry, Senior Planner *K.G.*

SUBJECT: **Request to Rezone, Parcel ED-4B, Roane County Tax Map 30, Parcel 1.09 from F.I.R. to IND-2**

An item for the City Council agenda is a request to rezone ED-4B from F.I.R., Federal Industry and Research to IND-2, Industrial. The Industrial Manhattan District Overlay is not being requested because the site has not been previously developed. ED-4B has an area of approximately 7.72 acres. The property is owned by Heritage Center L.L.C. and is located on State Route 58 on the east side of Victorious Boulevard East. The purpose of the rezoning is to allow the property to be used for private development. A portion of the site is to be used for a solar array as an alternative energy demonstration project. At their regular meeting on October 27, 2011, the Planning Commission recommended approval of the rezoning by a vote of 7-0.

The F.I.R., Federal Industry and Research zoning district is only applicable to the Department of Energy (DOE) Reservation. When property is transferred from the federal government to enable private development, rezoning to an appropriate district is required. Rezoning the subject property to IND-2, Industrial is the next step in facilitating the reuse of this industrial property. The Staff finds the rezoning to be in compliance with the Land Use Plan, consistent with the existing uses within the area and appropriate for the proposed use. Approval of the rezoning is recommended.

*Kahla Gentry*  
\_\_\_\_\_  
Kahla Gentry

Attachments

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

*Mark S. Watson*  
\_\_\_\_\_  
Mark S. Watson

*11/8/11*  
\_\_\_\_\_  
Date

## Staff Review of Rezoning Request

Location & Approximate Area: Roane County Tax Map 30, Parcels 1.09; also identified as ED-4B, located within the Heritage Center on State Route 58 east of Victorious Boulevard East. Approx. 7.72 acres in area.

Date: October 19, 2011

**Owner:** Heritage Center LLC  
107 Lea Way  
Oak Ridge, TN 37830

### **Request Rezoning**

From: F.I.R., Federal Industry and Research  
To: IND-2, Industrial

**Purpose:** Construction of solar array for alternative energy demonstration by a private company.

**Site Characteristics:** About same elevation as adjacent lands. Site is generally level.

**Existing Land Use:** Undeveloped

### **Adjacent Land Uses & Zoning:**

North: F.I.R., Federal Industry and Research, Heritage Center industrial area  
East: F.I.R., Federal Industry and Research, open space within Heritage Center  
South: State Route 58  
West: IND-2/IMDO – ED-8A, parking area

**Previous Rezoning Requests:** None

2. **Conformity with 1988 Comprehensive Plan:** The Land Use Plan designates this area as I, Industrial. The proposed zone is in conformance with the Land Use Plan.

Applicable Policies:

Policy E-3: The City will attempt to strengthen a coordinated, business-like, public-private approach to retain, develop and recruit targeted businesses that broaden the tax base, particularly those which maintain or increase per capita and family income.

POLICY E-4: In a joint public-private partnership approach, the City will work with the community to nurture spin-off industries and stimulate the formation of affinity industries in Oak Ridge.

POLICY L-11: The City will locate new industrial and office areas and enforce site design standards to ensure that residential neighborhoods are protected from the adverse effects of those activities.

### 3. **Applicable Regulations:**

Setbacks: IND-2, Industrial setbacks are as follows: Front – 30 feet; Side –25 feet;  
Rear – 25 feet.

Maximum Usable Floor Area to Lot Area Ratio: 60%

#### **Analysis:**

The following criteria were used to evaluate the rezoning request.

1) **Is the proposed zoning district consistent with the City's Comprehensive Plan?**

Yes.

2) **Are there substantial changes in the character of development in or near the area under consideration that support the proposed rezoning.**

The property has become privately owned and made available by D.O.E for economic development.

3) **Is the character of the area suitable for the uses permitted in the proposed zoning district and is the proposed zoning district compatible with surrounding zoning and uses?** Yes, the property is within an industrial area without close proximity to residential uses. There is nearby access to S.R. 58, S.R. 95 and Interstate 40.

4) **Will the proposed rezoning create an isolated district unrelated to adjacent and nearby districts?**

The ED-4B parcel is part of the fourth group of parcels within the Heritage Center to be rezoned. ED-5 was rezoned from FIR to IND-2 in September 2009. ED-8 was rezoned to IND-2/IMDO in March 2011. ED-9A & B is currently undergoing rezoning to IND-2/IMDO. Additional rezonings from F.I.R. will occur as the redevelopment and privatizing of the Heritage Center continues.

5) **Are public facilities and services adequate to accommodate the proposed zoning district?**

Water and sewer is not required for the solar array use. If the use changes a resubdivision plat will be required showing the provision of water and sewer to the parcel. When the parcel is replatted water and sewer service to the lot must be constructed or bonded. Road capacity is adequate.

6) **Would the requested rezoning have environmental impacts?**

The Heritage Center is already an industrial site. Changing the zoning from F.I.R. to IND-2 will not change the environmental impacts.

**Neighborhood Position:** No comments have been received. The surrounding property is held either by Heritage Center LLC or the U.S. D.O.E.

**Landscaping/Buffering requirements:** The landscaping and design standards within Article XIII of the Zoning Ordinance will apply at final site review stage.

**Notification of Property Owners Within 200':** October 14, 2011

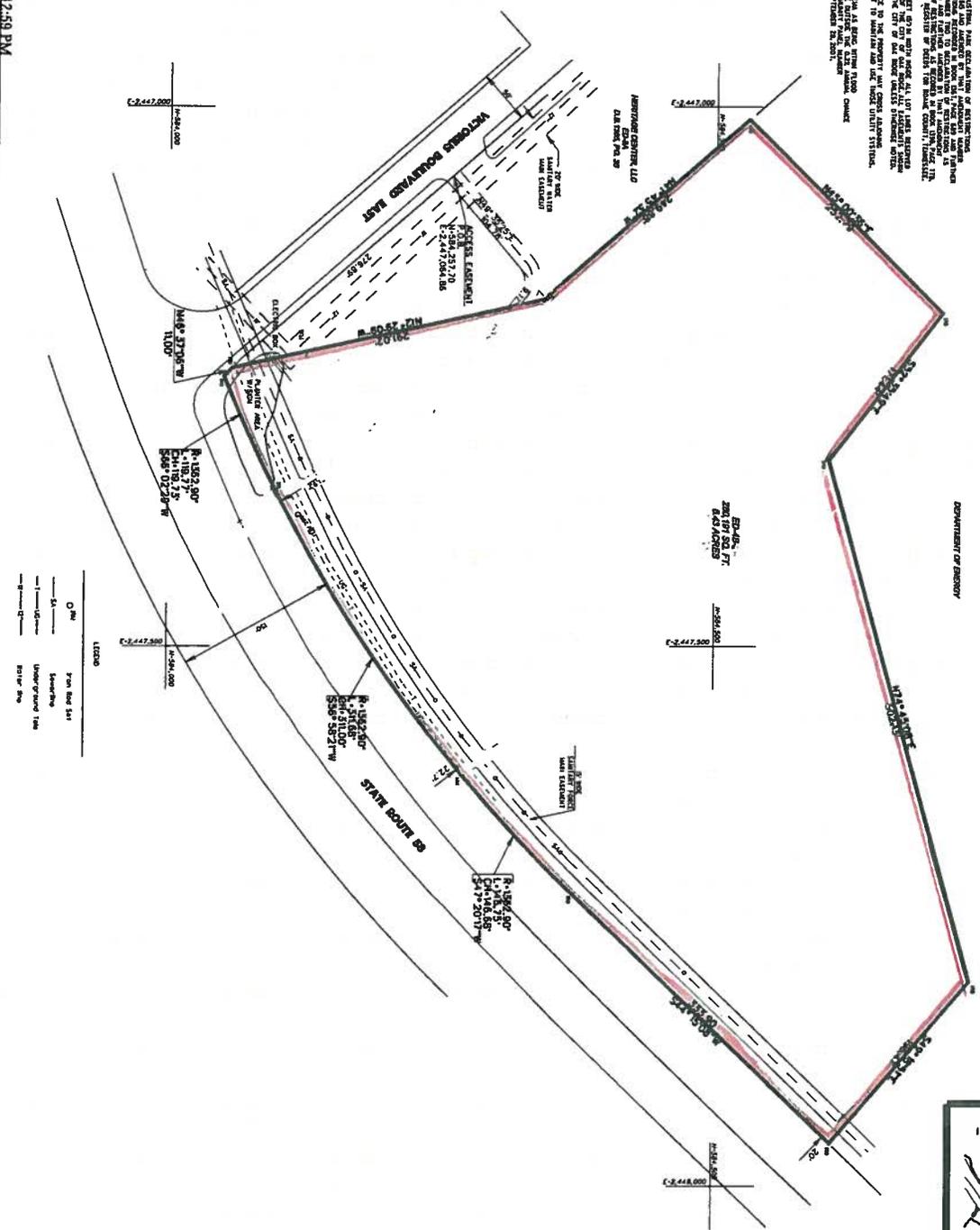
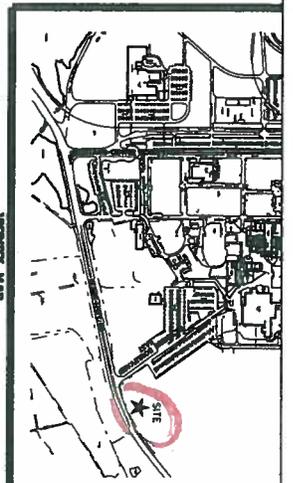
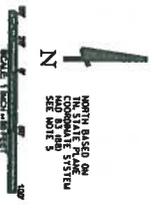
**Conclusion and Planning Staff Recommendation:** Staff recommends approval the IND-2 Industrial zoning as requested, finding the proposed zoning consistent with existing uses and the character of development within the area and in compliance with the Comprehensive Plan.

**Planning Commission Recommendation:** October 27, 2011, recommended approval, 7-0.

1. THIS MAP IS NOT TO BE CONSIDERED AS A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE USER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.
2. THE CITY OF INDIANAPOLIS HAS REVIEWED THIS MAP AND HAS DETERMINED THAT IT IS IN CONFORMANCE WITH THE CITY OF INDIANAPOLIS ZONING ORDINANCES AND THE CITY OF INDIANAPOLIS ZONING COMMISSION'S DECISIONS.
3. THE CITY OF INDIANAPOLIS HAS REVIEWED THIS MAP AND HAS DETERMINED THAT IT IS IN CONFORMANCE WITH THE CITY OF INDIANAPOLIS ZONING ORDINANCES AND THE CITY OF INDIANAPOLIS ZONING COMMISSION'S DECISIONS.
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## REZONE FROM F.I.R. TO IND-2

DEPARTMENT OF ENERGY



OWNER:  
HERITAGE CENTER, LLC  
ONE ONE ONE EAST WASHINGTON STREET  
INDIANAPOLIS, IN 46204

DATE: 08/21/2013 12:59 PM

**NOTICE TO THE PUBLIC:** This map is a preliminary map and is subject to change without notice. The user shall be responsible for verifying the accuracy of the information contained herein.

**REVISIONS:**

NO.	DATE	DESCRIPTION
1	08-21-13	ISSUED FOR REVIEW

**TITLE**

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCEL 1.09, ROANE COUNTY TAX MAP 30, ALSO KNOWN AS ED-4B, LOCATED AT HERITAGE CENTER, FROM F.I.R., FEDERAL INDUSTRY AND RESEARCH TO IND-2, INDUSTRIAL.

WHEREAS, the following change has been submitted for approval or disapproval to the Oak Ridge Municipal Planning Commission and the Commission has approved the same; and

WHEREAS, a public hearing thereon has been held as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE TENNESSEE:

Section 1. The district boundaries of the zoning map attached to and made a part of Ordinance No. 2, as amended, are revised in the following particulars:

<u>Property Description</u>	<u>Location</u>	<u>Present Zoning District</u>	<u>New Zoning District</u>
Parcel 1.09 Roane County Map 30 (± 7.72 Acres)	State Route 58 east of Victorious Boulevard	F.I.R., Federal Industry and and Research	IND-2, Industrial

Section 2. The changes shall be imposed upon said map and shall be as much a part of Ordinance No. 2 as if fully described therein.

Section 3. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

Public Hearing: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
First Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

**COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM**  
**11-75**

DATE: November 3, 2011

TO: Mark S. Watson, City Manager

THROUGH: Kathryn Baldwin, Community Development Director 

FROM: Kahla Gentry, Senior Planner 

SUBJECT: **Request to Rezone, Parcels 10.06 and 10.07, Roane County Tax Map 29, from F.I.R. to IND-2/IMDO**

An item for the City Council agenda is a request to rezone Parcels 10.06 and 10.07, Map 29, also referred to as the K-792 Area, see attached map, from F.I.R., Federal Industry and Research to IND-2/IMDO, Industrial Manhattan District Overlay. These parcels have an approximate area of 19.91 acres. Parcel 10.06 is owned by Energy Solutions, L.L.C. and Parcel 10.07 is owned by Heritage Center, L.L.C. The property is located within the northwest section of Heritage Center on West Perimeter Road and 22<sup>nd</sup> Street. Rezoning is requested because the property is being converted to private industrial use. Parcel 10.06 is being used as a transfer yard by Energy Solutions. At their regular meeting on October 27, 2011, the Planning Commission recommended approval of the rezoning by a vote of 7-0.

The F.I.R., Federal Industry and Research zoning district is only applicable to the D.O.E. Reservation. When property is transferred from the federal government to enable private development, rezoning to an appropriate district is required. The Industrial Manhattan District Overlay (IMDO) is a new district that was approved by City Council in December 2010. The IMDO district was created to facilitate the transfer and reuse of property from the U.S. Department of Energy (D.O.E.) to the private sector. As the Heritage Center is transferred to private entities, it is expected that subdivision plats and site plans for properties with existing buildings and parking facilities will need to have alternatives available in meeting various requirements such as minimum setbacks from property lines, parking requirements, green space and landscaping requirements. The IMDO does not waive bulk regulations or performance criteria, but rather provides alternative measures to achieve compliance through off-site improvements, cross access easements, and identification of shared parking facilities.

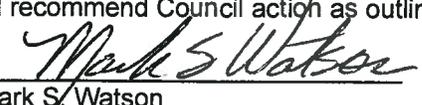
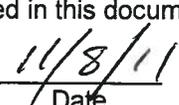
Rezoning the subject property to a base zone of IND-2, Industrial with the Industrial Manhattan District Overlay (IMDO) is the next step in facilitating the reuse of this industrial property. Staff finds the rezoning to be in compliance with the Land Use Plan, consistent with the existing uses within the area and appropriate for the proposed use. Approval of the rezoning is recommended.

  
Kahla Gentry

Attachments

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson   
Date

## Staff Review of Rezoning Request

Location & Approximate Area: Roane County Tax Map 29, Parcels 10.06 and 10.07; also identified as K-792 Area, located on West Perimeter Road within the Heritage Center. Approx. 19.91 acres in area.

Date: October 20, 2011

**Owner:** Heritage Center LLC  
107 Lea Way  
Oak Ridge, TN 37830

Energy Solutions, LLC  
423 West 400 South Ste 200  
Salt Lake City, UT 84101

### **Request Rezoning**

From: F.I.R., Federal Industry and Research

To: IND-2 IMDO, Industrial Manhattan District Overlay

**Purpose:** Transfer of property for private use of brownfield industrial site.

**Site Characteristics:** About same elevation as adjacent lands. Site is generally level.

**Existing Land Use:** Industrial

### **Adjacent Land Uses & Zoning:**

North: F.I.R., Federal Industry and Research, Heritage Center industrial area

East: F.I.R., Federal Industry and Research, Heritage Center industrial area

South: F.I.R., Federal Industry and Research, Heritage Center industrial area

West: F.I.R., Federal Industry and Research, Heritage Center industrial area

**Previous Rezoning Requests:** None

2. **Conformity with 1988 Comprehensive Plan:** The Land Use Plan designates this area as I, Industrial. The proposed zone is in conformance with the Land Use Plan.

Applicable Policies:

Policy E-3: The City will attempt to strengthen a coordinated, business-like, public-private approach to retain, develop and recruit targeted businesses that broaden the tax base, particularly those which maintain or increase per capita and family income.

POLICY E-4: In a joint public-private partnership approach, the City will work with the community to nurture spin-off industries and stimulate the formation of affinity industries in Oak Ridge.

POLICY L-11: The City will locate new industrial and office areas and enforce site design standards to ensure that residential neighborhoods are protected from the adverse effects of those activities.

3. **Applicable Regulations:**

Setbacks: IND-2, Industrial setbacks are as follows: Front – 30 feet; Side – 25 feet; Rear – 25 feet. Overlay allows exceptions for existing buildings

Maximum Usable Floor Area to Lot Area Ratio: 60%

**Analysis:**

The following criteria were used to evaluate the rezoning request.

**1) Is the proposed zoning district consistent with the City's Comprehensive Plan?**

Yes.

**2) Are there substantial changes in the character of development in or near the area under consideration that support the proposed rezoning.**

The property has become privately owned and made available by D.O.E for economic development.

**3) Is the character of the area suitable for the uses permitted in the proposed zoning district and is the proposed zoning district compatible with surrounding zoning and uses? Yes, the property is within an industrial area without close proximity to residential uses. There is nearby access to S.R. 58, S.R. 95 and Interstate 40.**

**4) Will the proposed rezoning create an isolated district unrelated to adjacent and nearby districts?**

The K-792 Area is the fourth group of parcels within the Heritage Center to be rezoned. ED-5 was rezoned from FIR to IND-2 in September 2009. ED-8 was rezoned to IND-2/IMDO in March 2011 and ED-9A and B are currently in the process of being rezoned from F.I.R. to IND-2/IMDO. Additional rezonings from F.I.R. will occur as the redevelopment and privatizing of the Heritage Center continues.

**5) Are public facilities and services adequate to accommodate the proposed zoning district?**

Road access and utility services are under the control of D.O.E.

**6) Would the requested rezoning have environmental impacts?**

The Heritage Center is already an industrial site. Changing the zoning from F.I.R. to IND-2/IMDO will not change the environmental impacts.

**Neighborhood Position:** No comments have been received. The surrounding property is held either by the U.S. D.O.E.

**Landscaping/Buffering requirements:** The landscaping and design standards within Article XIII of the Zoning Ordinance will apply at final site review stage with possible alternatives as allowed by the Overlay District.

**Notification of Property Owners Within 200':** October 19, 2011

**Conclusion and Planning Staff Recommendation:** Staff recommends approval of the IND-2 Industrial Manhattan District Overlay as requested, finding the proposed zoning consistent with existing uses and the character of development within the area and in compliance with the Comprehensive Plan.

**Planning Commission Recommendation:** October 27, 2011, recommended approval, 7-0



**TITLE**

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCELS 10.06 AND 10.07, ROANE COUNTY TAX MAP 29, ALSO KNOWN AS K-792 AREA, LOCATED AT HERITAGE CENTER, FROM F.I.R., FEDERAL INDUSTRY AND RESEARCH TO IND-2, INDUSTRIAL MANHATTAN DISTRICT OVERLAY (IND-2/IMDO).

WHEREAS, the following change has been submitted for approval or disapproval to the Oak Ridge Municipal Planning Commission and the Commission has approved the same; and

WHEREAS, a public hearing thereon has been held as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE TENNESSEE:

Section 1. The district boundaries of the zoning map attached to and made a part of Ordinance No. 2, as amended, are revised in the following particulars:

<u>Property Description</u>	<u>Location</u>	<u>Present Zoning District</u>	<u>New Zoning District</u>
Parcels 10.06 and 10.07, Roane County Map 29 (± 19.91 Acres)	West Perimeter Road within Heritage Center	F.I.R., Federal Industry and Research	IND-2, Industrial Manhattan District Overlay (IND-2/IMDO)

Section 2. The changes shall be imposed upon said map and shall be as much a part of Ordinance No. 2 as if fully described therein.

Section 3. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, City Clerk

- Public Hearing: \_\_\_\_\_
- Publication Date: \_\_\_\_\_
- First Reading: \_\_\_\_\_
- Publication Date: \_\_\_\_\_
- Second Reading: \_\_\_\_\_
- Publication Date: \_\_\_\_\_
- Effective Date: \_\_\_\_\_

**FINAL ADOPTION  
OF  
ORDINANCES**

LEGAL DEPARTMENT MEMORANDUM

11-36

DATE: September 29, 2011

TO: Mark S. Watson, City Manager

FROM: Kenneth R. Krushenski, City Attorney  
Tammy M. Dunn, Senior Staff Attorney

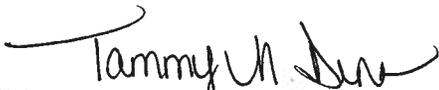
SUBJECT: AMENDMENT OF CITY CODE §3-406(A) TO INCREASE THE CITY COURT CLERK FEE

An item for the agenda is an ordinance to amend City Code §3-406(a) to increase the city court clerk fee from \$59.00 to \$81.25.

In 2004, the City's city court clerk fee was increased from \$30.00 to \$59.00 to be more in line with other cities' court costs. The Honorable Robert A. McNees, III, City Judge, and Karen Hendrix, City Court Clerk, have reviewed the city court clerk fee, as well as the bond forfeiture amounts, due to recent changes in state law. After thorough review, Judge McNees has requested an increase in the city court clerk fee from \$59.00 to \$81.25.

The adoption of the new city court clerk fee amount will result in total court costs of \$95.00 broken down as follows: \$81.25 city court clerk fee + \$13.75 city litigation tax. This total will put the City closer to the amount that other municipalities charge. For those individuals who are found guilty in court or who are found guilty for failure to appear in court, an additional amount is added to their total court costs. This additional amount is required by State law and is referred to as the state litigation tax. The state litigation tax is currently set at \$13.75.

Approval of the attached ordinance is recommended.

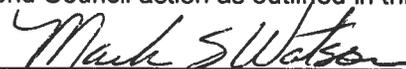
  
\_\_\_\_\_  
Tammy M. Dunn

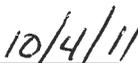
  
\_\_\_\_\_  
Kenneth R. Krushenski

Attachment

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
\_\_\_\_\_  
Mark S. Watson

  
\_\_\_\_\_  
Date

## Court Cost Survey 2011

<u>CITY/TOWN</u>	<u>TOTAL COURT COST*</u> <u>(See Footnote)</u>
<b>Clinton</b>	\$125.00
<b>Columbia</b>	\$149.50
<b>Dickson</b>	\$113.75
<b>Fairview</b>	\$176.00
<b>Franklin</b>	\$76.00
<b>Hendersonville</b>	\$106.00
<b>Knoxville</b>	\$96.50
<b>La Vergne</b>	\$100.00
<b>Lebanon</b>	\$127.00
<b>Lenoir City</b>	\$185.00 - \$191.00 (depending on charge)
<b>Maryville</b>	\$73.50 - \$83.50 (depending on charge)
<b>Millington</b>	\$89.75
<b>Murfreesboro</b>	\$113.50
<b>Oak Ridge (current)</b>	\$86.50
<b>Oak Ridge (proposed)</b>	\$108.75
<b>Smyrna</b>	\$188.33

\* Survey was conducted by email, phone and website search. An initial request was sent by email to municipal attorneys, which accounts for the variety of cities represented on the survey. Adjacent cities that did not respond to the email and were contacted by phone or the information was obtained through their website. Oliver Springs did not respond to phone calls and information on court costs was not available online. Cities that were contacted by phone or email were asked whether the court cost amount included litigation taxes. For information obtained through websites, it is unknown whether litigation taxes are included and, therefore, the amount listed should be considered as a minimum amount. The above amounts do not include any fines.

TITLE

AN ORDINANCE TO AMEND TITLE 3, TITLED "MUNICIPAL COURT," CHAPTER 4, TITLED "COURT ADMINISTRATION," SECTION 3-406, TITLED "COSTS ESTABLISHED," SUBSECTION (A), TITLED "CITY COURT CLERK FEE," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY INCREASING THE CITY COURT CLERK FEE TO EIGHTY-ONE DOLLARS AND TWENTY-FIVE CENTS (\$81.25).

WHEREAS, the City of Oak Ridge currently charges \$59.00 for the city court clerk fee; and

WHEREAS, the City has not raised the city court clerk fee since 2004; and

WHEREAS, the City desires to raise the city court clerk fee to \$81.25 to be more in line with the amount charged by other municipalities, with the new fee effective January 1, 2012.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Title 3, titled, "Municipal Court," Chapter 4, titled "Court Administration," Section 3-406, titled "Costs established," Subsection (a), titled "City court clerk fee," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting the phrase "fifty nine dollars (\$59.00)" and substituting therefor the phrase "eighty-one dollars and twenty-five cents (\$89.25)" beginning January 1, 2012.

Section 2. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
Kenneth R. Krusherski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, Acting City Clerk

First Reading: 10/10/11  
Publication Date: 10/17/11  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

**COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM**  
**11-64**

DATE: September 26, 2011

TO: Mark S. Watson, City Manager

FROM: Kahla Gentry, Senior Planner

SUBJECT: **Request to Rezone, Parcels 1.04, 1.17, and 1.18, Roane County Tax Map 30, from F.I.R. to IND-2/IMDO**

An item for the City Council agenda is a request to rezone ED-9A & B and Building K-1225 from F.I.R., Federal Industry and Research to IND-2/IMDO, Industrial Manhattan District Overlay. This property is identified on the Roane County Tax Map as Parcels 1.04, 1.17 and 1.18 on Tax Map 30. These parcels have an approximate area of 12.08 acres. ED9A & B are owned by Heritage Center L.L.C. and Building K-1225 is owned by JMM Realty. The property is located within Heritage Center and is being converted to private industrial use. At their regular meeting on September 22, 2011, the Planning Commission recommended approval of the rezoning by a vote of 6-0.

The F.I.R., Federal Industry and Research zoning district is only applicable to the D.O.E. Reservation. When property is transferred from the federal government to enable private development, rezoning to an appropriate district is required. The Industrial Manhattan District Overlay (IMDO) is a new district that was approved by City Council in December 2010. The IMDO district was created to facilitate the transfer and reuse of property from the U.S. Department of Energy (D.O.E.) to the private sector. As the Heritage Center is transferred to private entities, it is expected that subdivision plats and site plans for properties with existing buildings and parking facilities will need to have alternatives available in meeting various requirements such as minimum setbacks from property lines, parking requirements, green space and landscaping requirements. The IMDO does not waive bulk regulations or performance criteria, but rather provides alternative measures to achieve compliance through off- site improvements, cross access easements, and identification of shared parking facilities.

Rezoning the subject property to a base zone of IND-2, Industrial with the Industrial Manhattan District Overlay (IMDO) is the next step in facilitating the reuse of this industrial property. The Staff finds the rezoning to be in compliance with the Land Use Plan, consistent with the existing uses within the area and appropriate for the proposed use. Approval of the rezoning is recommended.

  
\_\_\_\_\_

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

Mark S. Watson      10/3/11  
Mark S. Watson                      Date

## Staff Review of Rezoning Request

Location & Approximate Area: Roane County Tax Map 30, Parcels 1.04, 1.17 and 1.18; also identified as ED-9 A& B, and building K 1225, all located within the Heritage Center. Approx. 12.08 acres in area.

Date: September 12, 2011

**Owner:** Heritage Center LLC  
107 Lea Way  
Oak Ridge, TN 37830

JMM Realty LLC, Manhattan Project LLC  
21312 Catawba Avenue  
Cornelius, NC 28031

### **Request Rezoning**

From: F.I.R., Federal Industry and Research  
To: IND-2 IMDO, Industrial Manhattan District Overlay

**Purpose:** Redevelopment of brownfield industrial site.

**Site Characteristics:** About same elevation as adjacent lands. Site is generally level.

**Existing Land Use:** Industrial, includes building K-1225

### **Adjacent Land Uses & Zoning:**

North: F.I.R., Federal Industry and Research, Heritage Center industrial area  
East: F.I.R., Federal Industry and Research, open space within Heritage Center  
South: IND-2/IMDO, ED-8  
West: IND-2/IMDO, ED-8

**Previous Rezoning Requests:** None

2. **Conformity with 1988 Comprehensive Plan:** The Land Use Plan designates this area as I, Industrial. The proposed zone is in conformance with the Land Use Plan.

Applicable Policies:

Policy E-3: The City will attempt to strengthen a coordinated, business-like, public-private approach to retain, develop and recruit targeted businesses that broaden the tax base, particularly those which maintain or increase per capita and family income.

POLICY E-4: In a joint public-private partnership approach, the City will work with the community to nurture spin-off industries and stimulate the formation of affinity industries in Oak Ridge.

POLICY L-11: The City will locate new industrial and office areas and enforce site design standards to ensure that residential neighborhoods are protected from the adverse effects of those activities.

### 3. **Applicable Regulations:**

Setbacks: IND-2, Industrial setbacks are as follows: Front – 30 feet; Side –25 feet;  
Rear – 25 feet. Overlay allows exceptions for existing buildings  
Maximum Usable Floor Area to Lot Area Ratio: 60%

### Analysis:

The following criteria were used to evaluate the rezoning request.

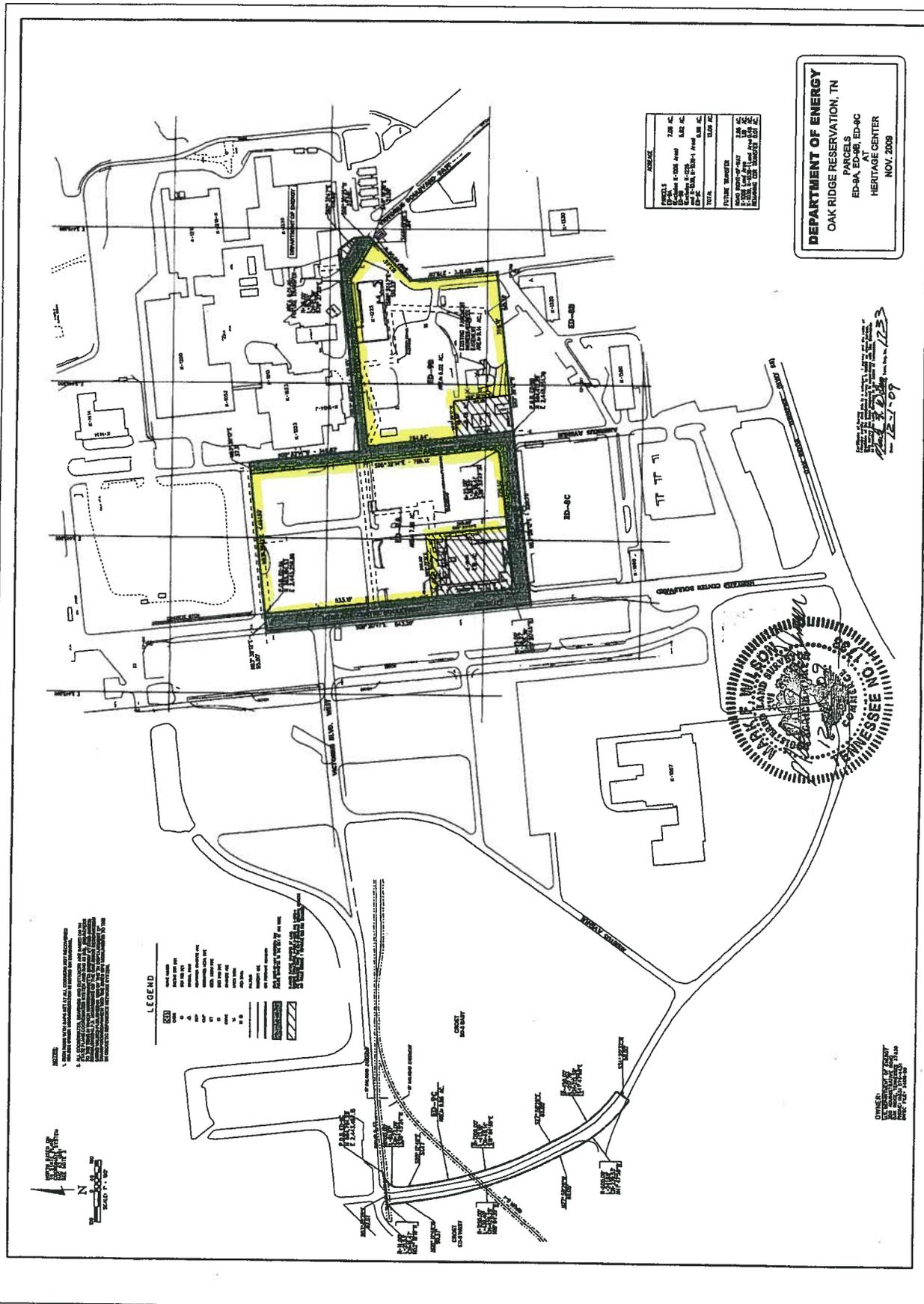
- 1) **Is the proposed zoning district consistent with the City's Comprehensive Plan?**  
Yes.
- 2) **Are there substantial changes in the character of development in or near the area under consideration that support the proposed rezoning.**  
The property has become privately owned and made available by D.O.E for economic development.
- 3) **Is the character of the area suitable for the uses permitted in the proposed zoning district and is the proposed zoning district compatible with surrounding zoning and uses?** Yes, the property is within an industrial area without close proximity to residential uses. There is nearby access to S.R. 58, S.R. 95 and Interstate 40.
- 4) **Will the proposed rezoning create an isolated district unrelated to adjacent and nearby districts?**  
The ED-9 parcels are the third group of parcels within the Heritage Center to be rezoned. ED-5 was rezoned from FIR to IND-2 in September 2009. ED-8 was rezoned to IND-2/IMDO in March 2011. Additional rezonings from F.I.R. will occur as the redevelopment and privatizing of the Heritage Center continues.
- 5) **Are public facilities and services adequate to accommodate the proposed zoning district?**  
Public utilities and road capacity are adequate.
- 6) **Would the requested rezoning have environmental impacts?**  
The Heritage Center is already an industrial site. Changing the zoning from F.I.R. to IND-2/IMDO will not change the environmental impacts.

**Neighborhood Position:** No comments have been received. The surrounding property is held either by Heritage Center LLC or the U.S. D.O.E.

**Landscaping/Buffering requirements:** The landscaping and design standards within Article XIII of the Zoning Ordinance will apply at final site review stage with possible alternatives as allowed by the Overlay District.

**Notification of Property Owners Within 200':** September 9, 2011

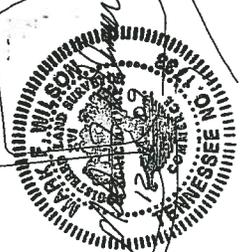
**Conclusion and Planning Staff Recommendation:** Staff recommends approval the IND-2 Industrial Manhattan District Overlay as requested, finding the proposed zoning consistent with existing uses and the character of development within the area and in compliance with the Comprehensive Plan.



ACRES	
PARCELS	7.88 AC.
ED-9A	1.00 AC.
ED-9B	1.00 AC.
ED-9C	1.00 AC.
ED-9D	1.00 AC.
ED-9E	1.00 AC.
ED-9F	1.00 AC.
ED-9G	1.00 AC.
ED-9H	1.00 AC.
ED-9I	1.00 AC.
ED-9J	1.00 AC.
ED-9K	1.00 AC.
ED-9L	1.00 AC.
ED-9M	1.00 AC.
ED-9N	1.00 AC.
ED-9O	1.00 AC.
ED-9P	1.00 AC.
ED-9Q	1.00 AC.
ED-9R	1.00 AC.
ED-9S	1.00 AC.
ED-9T	1.00 AC.
ED-9U	1.00 AC.
ED-9V	1.00 AC.
ED-9W	1.00 AC.
ED-9X	1.00 AC.
ED-9Y	1.00 AC.
ED-9Z	1.00 AC.
TOTAL	7.88 AC.

**DEPARTMENT OF ENERGY**  
**OAK RIDGE RESERVATION, TN**  
 PARCELS  
 ED-9A, ED-9B, ED-9C  
 HERITAGE CENTER  
 NOV. 2009

DATE: 11/10/09  
 TIME: 10:00 AM  
 DRAWN BY: J. D. [Signature]  
 CHECKED BY: [Signature]  
 SCALE: AS SHOWN



**NOTES:**  
 1. THIS PLAN IS A PART OF THE OAK RIDGE RESERVATION MAPS.  
 2. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.  
 3. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD OR RAILROAD UNLESS OTHERWISE NOTED.  
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**LEGEND**

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CHANGED BY: [Signature]  
 DATE: 11/10/09  
 SCALE: AS SHOWN

TITLE

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCELS 1.04, 1.17, AND 1.18, ROANE COUNTY TAX MAP 30, ALSO KNOWN AS BUILDING K-1225, ED-9A, AND ED-9B, LOCATED AT HERITAGE CENTER, FROM F.I.R., FEDERAL INDUSTRY AND RESEARCH TO IND-2, INDUSTRIAL MANHATTAN DISTRICT OVERLAY (IND-2/IMDO).

WHEREAS, the following change has been submitted for approval or disapproval to the Oak Ridge Municipal Planning Commission and the Commission has approved the same; and

WHEREAS, a public hearing thereon has been held as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE TENNESSEE:

Section 1. The district boundaries of the zoning map attached to and made a part of Ordinance No. 2, as amended, are revised in the following particulars:

<u>Property Description</u>	<u>Location</u>	<u>Present Zoning District</u>	<u>New Zoning District</u>
Parcels 1.04, 1.17, and 1.18, Roane County Map 30 (± 12.08 Acres)	North side of State Route 58 between Heritage Center Boulevard and Victorious Boulevard	F.I.R., Federal Industry and Research	IND-2, Industrial Manhattan District Overlay (IND-2/IMDO)

Section 2. The changes shall be imposed upon said map and shall be as much a part of Ordinance No. 2 as if fully described therein.

Section 3. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, Acting City Clerk

Public Hearing: 10/10/11  
Publication Date: 9/23/11  
First Reading: 10/10/11  
Publication Date: 10/17/11  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

**COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM**  
**11-65**

DATE: September 26, 2011  
TO: Mark S. Watson, City Manager  
FROM: Kahla Gentry, Senior Planner  
SUBJECT: **FEMA FLOODPLAIN MANAGEMENT ORDINANCE UPDATE**

An item for the City Council agenda is an amendment to the Oak Ridge Zoning Ordinance as it pertains to Floodplain Management Regulations. The State, in association with FEMA, has provided an updated model Municipal Floodplain Zoning Ordinance amendment for cities to utilize in order to maintain their compliance and participation in the Flood Insurance Program. The Oak Ridge Floodplain Management Ordinance provides details on zoning requirements and development regulations. The revised ordinance provides greater clarification of language and administrative procedures. Cities must keep their regulations regarding floodplain management up to date in order to continue participation in the Flood Insurance Program. Property owners cannot obtain flood insurance unless FEMA determines that the City is in compliance with program requirements pertaining to regulating development within floodplain areas. At their regular meeting on August 25, 2011, the Planning Commission voted 7-0 to recommend approval of the updated ordinance.

Kahla Gentry

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

Mark S. Watson      9/27/11  
Mark S. Watson      Date

Bold-Strikethrough of Revisions to Zoning Ordinance §9.07

Section 9.07 Floodplain Regulations

(a) Statutory Authorization

The Legislature of the State of Tennessee has, in **Tennessee Code Annotated Sections §13-7-201 through §13-7-210**; ~~Tennessee Code Annotated~~ delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(b) Findings of Fact

1. The City of Oak Ridge, ~~Tennessee~~, Mayor and City Council wish to maintain eligibility in the National Flood Insurance Program (**NFIP**) and in order to do so must meet the ~~requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition)~~. **NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Sec. 60.3.**
2. Areas of Oak Ridge are subject to periodic water 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.
3. These 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, flood-proofed, or otherwise unprotected from flood damages.

(c) Statement of Purpose

The floodplain regulations are established to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

1. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(d) Objectives

The objectives of this ordinance are:

1. To protect human life, health and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodable area; and
8. To maintain eligibility for participation in the National Flood Insurance Program.

(e) Definitions

Unless specifically defined below, words or phrases used in Section 9.07 and Section 9.08 shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

1. Accessory Structure:

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

- a. Accessory structures shall ~~not be used for human habitation.~~ **only be used for parking vehicles and storage.**
- b. Accessory structures shall be designed to have low flood damage potential.
- c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- d. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
- e. **Utilities and service facilities** such as electrical and heating equipment shall be elevated or floodproofed **otherwise protected from intrusion of floodwaters.**

2. Act:

"Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

3. Addition (to an existing building):

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

4. Appeal:

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

5. Area of Shallow Flooding:

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

6. Area of Special Flood-related Erosion Hazard:

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

7. Area of Special Flood Hazard: **see "Special Flood Hazard Area"**

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

8. Base Flood:

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

9. Basement:

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

~~10. Breakaway Wall:~~

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

10. 11. Building: **see "Structure"**

~~"Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (See "Structure").~~

11. 12. Development:

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

12. 13. Elevated Building:

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

13. 14. Emergency Flood Insurance Program or Emergency Program:

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

14. 15. Erosion:

"Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

15. 16. Exception:

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

16. 17. Existing Construction:

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

**17. 18.** Existing Manufactured Home Park or Subdivision:

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

**18. 19.** Existing Structures: See Existing Construction

**19. 20.** Expansion to an Existing Manufactured Home Park or Subdivision:

"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. 21.** Flood or Flooding:

"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. 22.** Flood Elevation Determination:

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

**22. 23.** Flood Elevation Study:

"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. 24.** Flood Hazard Boundary Map (FHBM):

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

**24. 25.** Flood Insurance Rate Map (FIRM):

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

**25. 26.** Flood Insurance Study:

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

**26. 27.** Floodplain or Flood-prone Area:

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

**27. 28.** Floodplain Management:

"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. 29.** Flood Protection System:

"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. 30.** Floodproofing:

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

**30. 31.** Flood-related Erosion:

"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. 32.** Flood-related Erosion Area or Flood-related Erosion Prone Area:

"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. 33. Flood-related Erosion Area Management:**

"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 flood plain management regulations.

**33. 34. Floodway:**

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

**35. ~~35. Floor:~~**

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

**34. 36. Freeboard:**

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

**35. 37. Functionally Dependent Use:**

"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. 38. Highest Adjacent Grade:**

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

**37. 39. Historic Structure:**

"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 ~~a local~~ **the City of Oak Ridge, Tennessee** inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior, or
  - (2) Directly by the Secretary of the Interior.

**38. 40. Levee:**

"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. 41. Levee System:**

"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. 42. Lowest Floor:**

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

**41. 43. Manufactured Home:**

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle", unless such transportable structures are placed on a site for 180 consecutive days or longer.

**42. 44. Manufactured Home Park or Subdivision:**

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**43. 45. Map:**

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

**44. 46. Mean Sea Level:**

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) 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. 47. National Geodetic Vertical Datum (NGVD):**

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

**46. 48. New Construction:**

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

**47. 49. New Manufactured Home Park or Subdivision:**

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

**48. 50. North American Vertical Datum (NAVD):**

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

**49. 54. 100-year Flood: See Base Flood**

**50. 52. Person:**

"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:**

**"Reasonably Safe from Flooding" means base flood waters will not inundate the land of 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. 53. Recreational Vehicle:**

"Recreational Vehicle" means a vehicle which is:

- a. Built on a single chassis;
- b. 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. 54. Regulatory Floodway:**

"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. 55. Riverine:**

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

**55. Special Flood Hazard Area:**

**"Special Flood Hazard Area is the land in the floodplain within a community subject to a one percent 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:**

"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:**

"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 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:

"State Coordinating Agency" means the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of ~~the Administrator~~ **FEMA** to assist in the implementation of the National Flood Insurance Program for the state.

59. Structure:

"Structure", for purposes of this section, means a walled and roofed building that ~~is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.~~ **including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.**

62. Substantial Damage:

"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 50 percent of the market value of the structure before the damage occurred.

63. Substantial Improvement:

~~"Substantial Improvement" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure before the Start of Construction of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.~~

~~For the purpose of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) 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; (2) Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a Historic Structure.~~

**“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 (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.**

**The term does not, however, include either: (1) 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; (2) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure”.**

64. Substantially Improved Existing Manufactured Home Parks or Subdivisions:

"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 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

65. Variance:

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

66. Violation:

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

67. Water Surface Elevation:

"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.

(f) General Provisions

1. Application

This Ordinance shall apply to all areas within the incorporated area of Oak Ridge, Tennessee.

2. Basis for Establishing the Areas of Special Flood Hazard

~~The Areas of Special Flood Hazard identified on the Anderson County, Tennessee and Incorporated Areas, Federal Emergency Management Agency, Flood Insurance Study (FIS), effective date May 4, 2009, and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47001C0214F, 0217F, 0218F, 0219F, 0236F, 0238F, 0239F, 0277F, 0281F, 0282F, 0302F, 0310F, effective date January 17, 2007 and Panel Numbers 47001C0230G, 02237G and 0245G, effective date May 4, 2009; and the Roane County, Tennessee and Incorporated Areas, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47145C0039F, 0110F, 0120F, 0130F, and 0260F, effective date September 28, 2007, and Community Panel Numbers 47145C0140G and 47145C0145G, effective date November 18, 2009; and any subsequent amendments or revisions thereto, along with all supporting technical data, are adopted by reference and declared to be part of this Ordinance. These areas shall be incorporated into the City of Oak Ridge, Tennessee Zoning Map. If any discrepancies occur between the City of Oak Ridge, Tennessee Zoning Map and the FEMA Flood Maps, the FEMA Flood Maps shall prevail.~~

**The Areas of Special Flood Hazard identified on the City of Oak Ridge Tennessee as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Map Numbers 47001C0214F, 0217F, 0218F, 0219F, 0236F, 0238F, 0239F, 0277F, 0281F, 0282F, 0283F, 0284F, 0295F, 0301F, 0302F, 0304F, 0310F, 0315F, effective date January 17, 2007, Map numbers 47001C0230G, 0237G and 0245G, effective date May 4, 2009, Map Numbers 47145C0039F, 0110F, 0120F, 0130F, 0135F, effective date September 28, 2007, Map Numbers 47145C0140G, 0145G, effective date November 18, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.**

3. Requirement for Development Permit

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

4. Compliance

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

5. Abrogation and Greater

This Ordinance is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

6. **Interpretation**

In the interpretation and application of this Ordinance, all provisions shall be: considered as minimum requirements; liberally construed in favor of the governing body, and; deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

7. **Warning and Disclaimer of Liability**

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

8. **Penalties for Violation**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. **Any person who violates this ordinance 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 City of Oak Ridge, Tennessee from taking such other lawful actions to prevent or remedy any violation.

(g) **Development Regulations**

1. **Designation of Ordinance Administrator**

The City Manager or the City Manager's duly authorized designee is hereby appointed as the Administrator to implement the provisions of this Ordinance.

2. **Permit Procedures**

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

a. 4. **Application stage**

- (1) a. 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 the highest adjacent grade when applicable under this Ordinance.

- (2) b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where base flood elevations are available, or to the highest adjacent grade when applicable under this Ordinance.
- (3) e. **Design A FEMA Floodproofing Certificate** from a **Tennessee** registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Section 9.07(g).
- (4) d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**b. 2. Construction Stage**

**Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.**

~~Within unnumbered approximate A zones, where Base Flood Elevation data are not available, the Administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.~~

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

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

~~Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-~~

referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(h) Duties and Responsibilities of the Administrator

Duties of the Administrator shall include, but not be limited to:

1. Review of all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. ~~Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.~~  
**Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.**
3. Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
5. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with Section 9.07(g).
6. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 9.07(g).
7. When flood proofing is utilized for a structure, the Administrator shall obtain certification of design criteria from a **Tennessee** registered professional engineer or architect, in accordance with Section 9.07(g).
8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

9. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from 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 **Community City of Oak Ridge, Tennessee** FIRM meet the requirements of this Ordinance.

~~Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 9.07(e). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Section 9.07(g).~~

10. All records pertaining to the provisions of this Ordinance shall be maintained in the office of the Community Development Department and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.
11. ~~Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.~~

(i) Flood Hazard Reduction, General Standards

In all flood prone areas the following provisions are required:

1. New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This ~~standard shall be~~ **requirement is** in addition to and consistent with applicable state **State of Tennessee** requirements for resisting wind forces;
3. New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
5. 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;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

7. 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;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "New Construction" as contained in this Ordinance; and,
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced.
11. **All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;**
12. **All subdivision proposals and other proposed new development proposals shall meet the standards of Section 9.07(j);**
13. **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;**
14. **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.**

(j) Flood Hazard Reduction, Specific Standards

These provisions shall apply to all Areas of Special Flood Hazard **in addition to those set forth in Section 9.07(i) as provided herein are required:**

1. **Residential Construction. In AE Zones** where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than two (2) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Section 9.07(j).

Within ~~unnumbered~~ **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 ~~or floodproofed~~ to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 9.07(e)). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Section 9.07(g). **Should solid foundation perimeter walls be used to elevate a**

**structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Section 9.07(j)(3).**

2. ~~Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when base flood elevation (BFE) data is available, In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot 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 Section 9.07(j)(3).~~

Within unnumbered approximate A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require **new construction and substantial improvement of any commercial, industrial, or non-residential building shall have** the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 9.07(e)). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Section 9.07(g).

**Non-Residential** buildings located in all A-zones may be flood-proofed, 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 Section 9.07(g).

3. ~~Elevated Building. Enclosures. All new construction or substantial improvements to existing buildings that include ANY fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, 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.~~

- a. Designs for complying with this requirement must either be certified by a **Tennessee** professional engineer or architect or meet the following minimum criteria.
- (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - (2) The bottom of all openings shall be no higher than one foot above the finish grade; and

- (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. ~~Access to~~ The enclosed area shall be the minimum necessary to allow for parking of vehicles, ~~(garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator);~~ and **or building access.**
- c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Section 9.07(j).

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
  - (1) **In AE Zones**, when base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than two (2) foot above the level of the base flood elevation; or,
  - (2) **In approximate A Zones**, absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements **of at least equivalent strength**) at least three (3) feet in height above the highest adjacent grade.
- c. Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of Section 9.07(j)(4).
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed on identified flood hazard sites must either:
  - (1) Be on the site for fewer than 180 consecutive days;
  - (2) 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**;

- (3) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than 180 consecutive days.

5. **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. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

- a. All subdivision proposals **and other proposed new development proposals** shall be consistent with the need to minimize flood damage.
- b. All subdivision proposals **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.
- c. All subdivision proposals **and other proposed new development proposals** shall have adequate drainage provided to reduce exposure to flood hazards.
- d. **In all approximate A Zones** Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty lots and/or five acres in area, **whichever is lesser, include within such proposals Base Flood Elevation data (See Section 9.07(m)).**

(k) **Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and With Floodways Designated**

Located within the Areas of Special Flood Hazard established in Section 9.07(f)(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:

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

**Study for the City of Oak Ridge Tennessee and certification thereof.**

2. New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions in Sections 9.07(i) and (j).

(l) Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Areas of Special Flood Hazard established in Section 9.07(f)(2) where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

1. No encroachments, including fill material, new structures or 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 (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings, **where permitted**, shall be elevated or flood-proofed to elevations established in accordance with Sections 9.07(i) and (j).

(m) Standards for Streams without Established Base Flood Elevations or Floodways (A Zones)

Located within the Areas of Special Flood Hazard established in Section 9.07(f)(2), where streams exist, but no base flood data has been provided (A-Zones), ~~OR~~ and where a Floodway has not been delineated, the following provisions shall apply:

- ~~1. When base flood elevation data or floodway data have not been provided in accordance with Section 9.07(g), then the Administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State or other source, in order to administer the applicable provisions of Section 9.07. ONLY if data is not available from these sources, then the following provisions (2 & 3) shall apply:~~
- ~~2. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.~~
- ~~3. In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing buildings shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to~~

~~facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 9.07(j) and "Elevated Buildings."~~

1. **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 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Sections 9.07(i) and (j).**
2. **Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.**
3. **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 (3) feet above the highest adjacent grade (as defined in Sections 9.07(e)). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Sections 9.07(g). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Section 9.07(j).**
4. **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 (1) foot at any point within the City of Oak Ridge, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.**
5. **New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Sections 9.07(i) and (j). Within approximate A Zones, require that those subsections of Section 9.07(j) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.**

(n) Standards For Areas of Shallow Flooding (AO and AH Zones)

Located within the Areas of Special Flood Hazard established in Section 9.07(f)(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 9.07(j) and "Elevated Buildings."
2. All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one (1) foot above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to at least three (3) feet 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 ordinance and shall provide such certification to the Administrator as set forth above and as required in Section 9.07(g).
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.
- ~~4. The Administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.~~

(o) Standards For Areas Protected by Flood Protection System (A-99 Zones)

Located within the areas of special flood hazard established in Section 9.07(f)(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of Sections 9.07(g), (h), and (i) shall apply.

(p) Standards for Unmapped Streams

Located within Oak Ridge Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

1. In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a **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 (1) foot at any point within the locality.
- ~~2. When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with Sections 9.07(g) and (h).~~

2. **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 Section 9.07(g) and (h).**

(q) Variance Procedures

The provisions of this section shall apply exclusively to areas of Special Flood Hazard within Oak Ridge, Tennessee.

1. The City of Oak Ridge Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Section **in accordance with Article XVI.**
2. Variances may be issued for the repair or rehabilitation of Historic Structures 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 Section 9.07** to preserve the historic character and design of the structure.
3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in Section 9.07, and:
  - a. The danger that materials may be swept onto other property to the injury of others;
  - b. The danger to life and property due to flooding or erosion;
  - c. The susceptibility of the proposed facility and its contents to flood damage;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i. 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;
  - j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and

facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

4. Upon consideration of the factors listed above, and the purposes of this Ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.
5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
6. Conditions for Variances
  - a. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; ~~and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.~~ **and the factors listed in Section 9.07(q)**
  - b. Variances shall only be issued upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship; or (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.
  - d. The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(r) Severability

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

TITLE

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," ARTICLE IX, TITLED "SPECIAL DISTRICTS," BY DELETING SECTION 9.07, TITLED "FLOODPLAIN REGULATIONS," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW SECTION 9.07, TITLED, "FLOODPLAIN REGULATIONS," TO UPDATE THE PROVISIONS FOR COMPLIANCE WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S (FEMA) CURRENT REQUIREMENTS, TO MINIMIZE DANGER TO LIFE AND PROPERTY DUE TO FLOODING, AND TO MAINTAIN THE CITY'S ELIGIBILITY FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM.

WHEREAS, the City of Oak Ridge is a participant in the National Flood Insurance Program (NFIP) by its adoption and enforcement of floodplain management ordinances contained in the Zoning Ordinance; and

WHEREAS, as a result of participation in the NFIP, federally-backed flood insurance is available to homeowners, renters, and business owners in Oak Ridge; and

WHEREAS, in order to remain a participant in the NFIP, the City is required to update the regulations relating to floodplain regulations for compliance with the Federal Emergency Management Agency's (FEMA) current requirements; and

WHEREAS, the following change has been submitted for approval or disapproval to the Oak Ridge Municipal Planning Commission and the Commission has approved the same; and

WHEREAS, a public hearing thereon has been held as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Article IX, titled "Special Districts," Section 9.07, titled "Floodplain Regulations," is hereby deleted in its entirety and replaced with a new Section 9.07, titled "Floodplain Regulations," which new section shall read as follows:

Section 9.07 Floodplain Regulations

(a) Statutory Authorization

The Legislature of the State of Tennessee has, in Tennessee Code Annotated §13-7-201 through §13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(b) Findings of Fact

1. The City of Oak Ridge, Tennessee, Mayor and City Council wish 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, Sec. 60.3.

2. Areas of Oak Ridge are subject to periodic water 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.
3. These 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, flood-proofed, or otherwise unprotected from flood damages.

(c) Statement of Purpose

The floodplain regulations are established to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

1. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(d) Objectives

The objectives of this ordinance are:

1. To protect human life, health and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

7. To ensure that potential homebuyers are notified that property is in a floodable area; and
8. To maintain eligibility for participation in the National Flood Insurance Program.

(e) Definitions

Unless specifically defined below, words or phrases used in Section 9.07 and Section 9.08 shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

1. Accessory Structure:

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

- a. Accessory structures shall only be used for parking vehicles and storage.
- b. Accessory structures shall be designed to have low flood damage potential.
- c. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- d. Accessory structures shall be firmly anchored to prevent flotation which 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. Act:

"Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

3. Addition (to an existing building):

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

4. Appeal:

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

5. Area of Shallow Flooding:

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

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

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

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.
10. Building: see "Structure"
11. Development:

"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:

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

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

14. Erosion:
- "Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.
15. Exception:
- "Exception" means a waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.
16. Existing Construction:
- "Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).
17. Existing Manufactured Home Park or Subdivision:
- "Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).
18. Existing Structures: See Existing Construction
19. Expansion to an Existing Manufactured Home Park or Subdivision:
- "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:
- "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:
- "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 or greater chance of occurrence in any given year.

22. Flood Elevation Study:

"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):

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

24. Flood Insurance Rate Map (FIRM):

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

25. Flood Insurance Study:

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

26. Floodplain or Flood-prone Area:

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

27. Floodplain Management:

"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:

"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:

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to

real estate or improved real property, water and sanitary facilities, structures and their contents.

30. Flood-related Erosion:

"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:

"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:

"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 flood plain management regulations.

33. Floodway:

"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:

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

35. Functionally Dependent Use:

"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:

"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:

"Historic Structure" means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on the City of Oak Ridge, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior, or
  - (2) Directly by the Secretary of the Interior.

38. Levee:

"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:

"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:

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

41. Manufactured Home:

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle", unless such transportable structures are placed on a site for 180 consecutive days or longer.

42. **Manufactured Home Park or Subdivision:**

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

43. **Map:**

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

44. **Mean Sea Level:**

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) 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):**

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

46. **New Construction:**

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

47. **New Manufactured Home Park or Subdivision:**

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

48. **North American Vertical Datum (NAVD):**

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

49. 100-year Flood: See Base Flood
50. Person:  
"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:  
"Reasonably Safe from Flooding" means base flood waters will not inundate the land of 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:  
"Recreational Vehicle" means a vehicle which is:
- a. Built on a single chassis;
  - b. 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:  
"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:  
"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
55. Special Flood Hazard Area:  
"Special Flood Hazard Area is the land in the floodplain within a community subject to a one percent 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:

"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:

"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 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:

"State Coordinating Agency" means the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the National Flood Insurance Program for the state.

59. Structure:

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

62. Substantial Damage:

"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 50 percent of the market value of the structure before the damage occurred.

63. Substantial Improvement:

"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 (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) 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; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

64. Substantially Improved Existing Manufactured Home Parks or Subdivisions:

"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 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

65. Variance:

"Variance" is a grant of relief from the requirements of this Ordinance.

66. Violation:

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

67. Water Surface Elevation:

"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.

(f) General Provisions

1. Application

This Ordinance shall apply to all areas within the incorporated area of Oak Ridge, Tennessee.

2. Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified on the City of Oak Ridge Tennessee as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Map Numbers 47001C0214F, 0217F, 0218F, 0219F, 0236F, 0238F, 0239F, 0277F, 0281F, 0282F, 0283F, 0284F, 0295F, 0301F, 0302F, 0304F, 0310F, 0315F, effective date January 17, 2007, Map numbers 47001C0230G, 0237G and 0245G, effective date May 4, 2009, Map Numbers 47145C0039F, 0110F, 0120F, 0130F, 0135F, effective date September 28, 2007, Map Numbers 47145C0140G, 0145G, effective date November 18, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

3. Requirement for Development Permit

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

4. Compliance

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

5. Abrogation and Greater

This Ordinance is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

6. Interpretation

In the interpretation and application of this Ordinance, all provisions shall be: considered as minimum requirements; liberally construed in favor of the governing body, and; deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

7. Warning and Disclaimer of Liability

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

8. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance 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 City of Oak Ridge, Tennessee from taking such other lawful actions to prevent or remedy any violation.

(g) Development Regulations

1. Designation of Ordinance Administrator

The City Manager or the City Manager's duly authorized designee is hereby appointed as the Administrator to implement the provisions of this Ordinance.

2. Permit Procedures

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

a. Application stage

- (1) 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 the highest adjacent grade when applicable under this Ordinance.
- (2) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where base flood elevations are available, or to the highest adjacent grade when applicable under this Ordinance.
- (3) A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Section 9.07(g).
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

b. Construction Stage

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A zones, where Base Flood Elevation data are not available, the Administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

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

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.

(h) Duties and Responsibilities of the Administrator

Duties of the Administrator shall include, but not be limited to:

1. Review of all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
3. Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
5. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with Section 9.07(g).
6. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 9.07(g).
7. When flood proofing is utilized for a structure, the Administrator shall obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Section 9.07(g).
8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Administrator shall make the necessary interpretation. Any person contesting the location of the

boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

9. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Oak Ridge, Tennessee FIRM meet the requirements of this Ordinance.
10. All records pertaining to the provisions of this Ordinance shall be maintained in the office of the Community Development Department and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

(i) Flood Hazard Reduction, General Standards

In all flood prone areas the following provisions are required:

1. New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee requirements for resisting wind forces;
3. New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
5. 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;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. 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;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "New Construction" as contained in this Ordinance; and,

10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced.
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Section 9.07(j);
13. 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;
14. 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.

(j) Flood Hazard Reduction, Specific Standards

These provisions shall apply to all Areas of Special Flood Hazard in addition to those set forth in Section 9.07(i) are required:

1. Residential Construction. In AE Zones where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than two (2) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Section 9.07(j).

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 (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 9.07(e)). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Section 9.07(g). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Section 9.07(j)(3).

2. Non-Residential Construction. In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot 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 Section 9.07(j)(3).

Within approximate A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require new construction and substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 9.07(e)). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Section 9.07(g).

Non-Residential buildings located in all A-zones may be flood-proofed, 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 Section 9.07(g).

3. Enclosures. All new construction or substantial improvements to existing buildings that include ANY 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.
  - a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet the following minimum criteria.
    - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - (2) The bottom of all openings shall be no higher than one foot above the finish grade; and
    - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
  - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Section 9.07(j).
4. Standards for Manufactured Homes and Recreational Vehicles
  - a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured

home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
  - (1) In AE Zones, when base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than two (2) foot above the level of the base flood elevation; or,
  - (2) In approximate A Zones, absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) at least three (3) feet in height above the highest adjacent grade.
- c. Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of Section 9.07(j)(4).
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed on identified flood hazard sites must either:
  - (1) Be on the site for fewer than 180 consecutive days;
  - (2) 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;
  - (3) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than 180 consecutive days.

5. 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. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

- a. All subdivision proposals and other proposed new development proposals shall be consistent with the need to minimize flood damage.

- b. All subdivision proposals 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.
- c. All subdivision proposals and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty lots and/or five acres in area, whichever is lesser, include within such proposals Base Flood Elevation data (See Section 9.07(m)).

(k) Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and With Floodways Designated

Located within the Areas of Special Flood Hazard established in Section 9.07(f)(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:

- 1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in ANY increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data and certification thereof, using the same methodologies as in the effective Flood Insurance Study for the City of Oak Ridge Tennessee and certification thereof.
- 2. New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions in Sections 9.07(i) and (j).

(l) Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Areas of Special Flood Hazard established in Section 9.07(f)(2) where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

- 1. No encroachments, including fill material, new structures or 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 (1) foot at any point

within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

2. New construction or substantial improvements of buildings, where permitted, shall be elevated or flood-proofed to elevations established in accordance with Sections 9.07(i) and (j).

(m) Standards for Streams without Established Base Flood Elevations or Floodways (A Zones)

Located within the Areas of Special Flood Hazard established in Section 9.07(f)(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:

1. 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 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Sections 9.07(i) and (j).
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. 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 (3) feet above the highest adjacent grade (as defined in Sections 9.07(e)). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Sections 9.07(g). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Section 9.07(j).
4. 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 (1) foot at any point within the City of Oak Ridge, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Sections 9.07(i) and (j). Within approximate A Zones, require that those subsections of Section 9.07(j) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(n) Standards For Areas of Shallow Flooding (AO and AH Zones)

Located within the Areas of Special Flood Hazard established in Section 9.07(f)(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 9.07(j) and "Elevated Buildings."
2. All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one (1) foot above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to at least three (3) feet 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 ordinance and shall provide such certification to the Administrator as set forth above and as required in Section 9.07(g).
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(o) Standards For Areas Protected by Flood Protection System (A-99 Zones)

Located within the areas of special flood hazard established in Section 9.07(f)(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of Sections 9.07(g), (h), and (i) shall apply.

(p) Standards for Unmapped Streams

Located within Oak Ridge Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

1. In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a 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 (1) foot at any point within the locality.

2. 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 Section 9.07(g) and (h).

(q) Variance Procedures

The provisions of this section shall apply exclusively to areas of Special Flood Hazard within Oak Ridge, Tennessee.

1. The City of Oak Ridge Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Section in accordance with Article XVI.
2. Variances may be issued for the repair or rehabilitation of Historic Structures 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 Section 9.07 to preserve the historic character and design of the structure.
3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in Section 9.07, and:
  - a. The danger that materials may be swept onto other property to the injury of others;
  - b. The danger to life and property due to flooding or erosion;
  - c. The susceptibility of the proposed facility and its contents to flood damage;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i. 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;

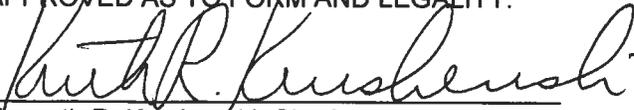
- j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
4. Upon consideration of the factors listed above, and the purposes of this Ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.
5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
6. 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 Section 9.07(q).
  - b. Variances shall only be issued upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship; or (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.
  - d. The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(r) Severability

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

Section 2. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, Acting City Clerk

Public Hearing: 10/10/11  
Publication Date: 9/23/11  
First Reading: 10/10/11  
Publication Date: 10/17/11  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_



## STAFF REVIEW OF REZONING REQUEST

**Location & Approximate Area:** Portion of Parcels 8.00, 9.00, 10.00 and 12.00 on Anderson County Tax Map 100G Group A, within the Municipal Industrial Park located on Emory Valley Road.

Owners: Emory Valley Center  
James A. Barker  
Joseph B. Kirk

Date: September 22, 2011

Request Rezoning From: RG-1, Residential,  
Open Space and Reserved

To: IND-1, Industrial

### **Site Characteristics:**

Strip approximately 50-feet deep along southern side of Emory Valley Road between Franklin Road and the western boundary line of 707 Emory Valley Road (Power Squadron building).

### **Adjacent Land Uses & Zoning:**

**North:** Across Emory Valley Road is the Daniel Arthur Building, zoned UB-2, Unified General Business.

**South:** Remaining portion of parcels being rezoned. Parcel 8.00 is owned by James A. Barker and is vacant. Parcels 9.00 and 10.00 are owned by the Emory Valley Center. The Emory Valley Center facilities are located on Parcel 10.00. Parcel 9.00 is the planned location for a new Emory Valley Center building. Parcel 12.00 is owned by Joseph B. Kirk and is the former location of Pathway Bellows. All of these parcels are zoned IND-1 as part of the Municipal Industrial Park

**East:** Power Squadron building zoned B-2, General Business

**West:** Across Franklin Road, American Technologies, Inc., zoned IND-1, Industrial.

**Previous Rezoning Requests:** None

### **Analysis:**

**Purpose:** As part of a preliminary review of the Emory Valley Center's new building and site development plans, City staff recommended removing the split zoning by removing the RG-1 strip. Removing the RG-1 zoning on the parcels contiguous to the Emory Valley Center property (former Pathway Bellows property now owned by James A. Barker and Joseph B. Kirk) is a logical grouping. Using a zoning district as a means of providing a buffer strip is inappropriate. Article XIII, Landscaping and Design Standards has been adopted as part of the Zoning Ordinance and now provides the means to require landscaping and buffers as part of site development. Previous rezonings in which a strip of RG-1 zoning has been removed include the former Paragon site, Fairbanks Plaza, and the proposed sites of Woodland Town Center and Enclave Business Park.

**Conformity with 1985 Comprehensive Plan:**

Land Use Plan: The Land Use Plan designation is I, Industrial. This Land Use Plan designation is consistent with the proposed rezoning.

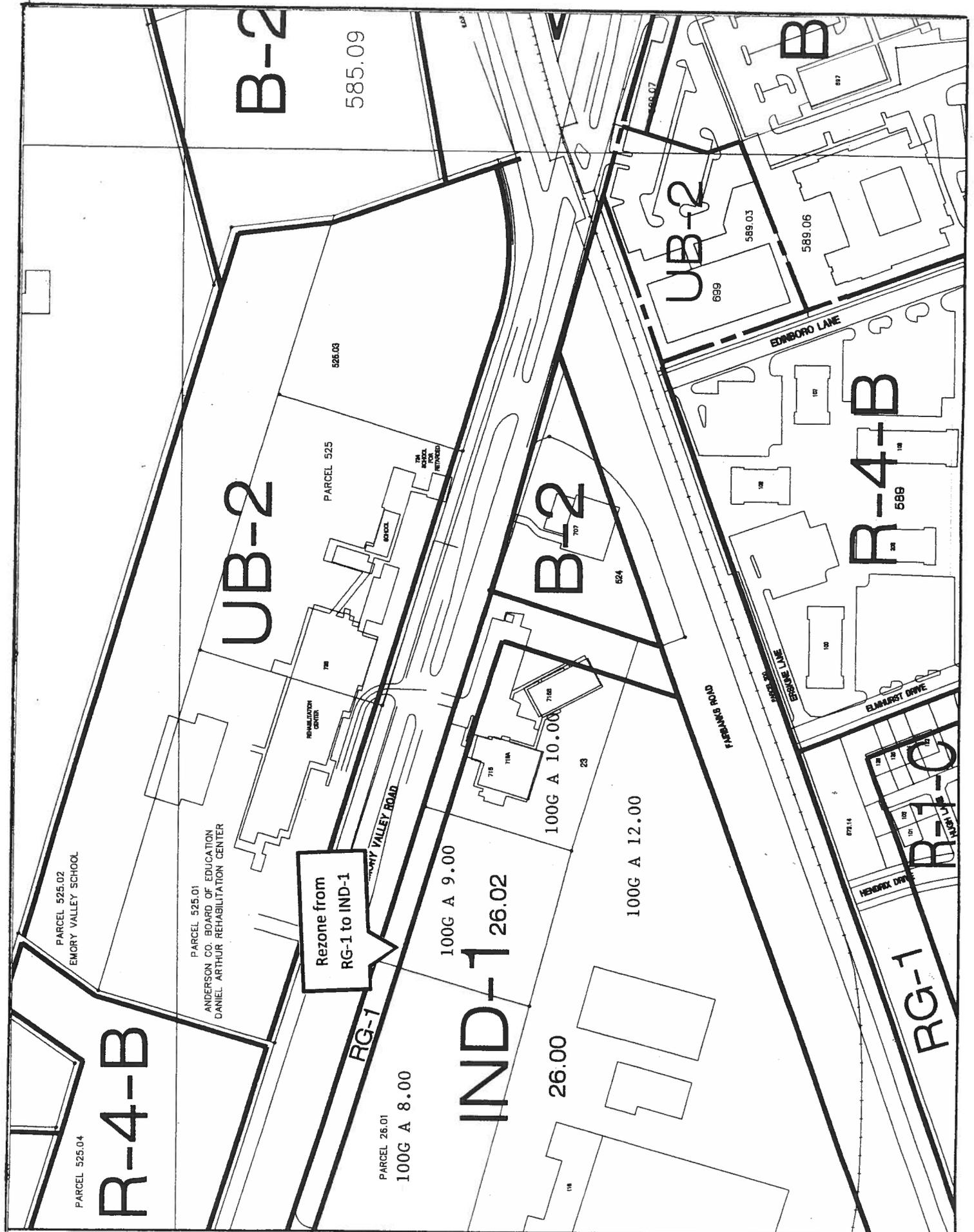
**Impacts of Rezoning:**

Any development must be in compliance with landscaping and buffer requirements in Article XIII, Landscaping and Design Standards of the Zoning Ordinance.

**Zoning Notice Sent:** September 14, 2011.

**Conclusion & Planning Staff Recommendation:** Staff recommends approval of the rezoning. The RG-1 zoning designation is being utilized inappropriately as a buffer strip. The Zoning Ordinance now provides buffer and landscaping requirements in Article XIII as a means of providing for streetscapes and transitions between uses.

**Planning Commission Recommendation:** (September 22, 2011) Recommended approval by a vote of 6-0.



PARCEL 525.04

R-4-B

PARCEL 525.02  
EMORY VALLEY SCHOOL

PARCEL 525.01  
ANDERSON CO. BOARD OF EDUCATION  
DANIEL ARTHUR REHABILITATION CENTER

UB-2

PARCEL 525

Rezone from  
RG-1 to IND-1

RG-1

PARCEL 26.01

100G A 8.00

100G A 9.00

IND-1 26.02

26.00

100G A 10.00

100G A 12.00

B-2

UB-2

EDINBORO LANE

DUNCAN DRIVE

ELMHURST DRIVE

ELMHURST DRIVE

RG-1

R-7-C

R-4-B

585.09

B-2

526.03

699

589.03

589.06

B

588

871.14

817

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102

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COMMUNITY VALLEY ROAD

THE SCHOOL FOR THE HEARDED

423

423.07

**TITLE**

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF AN APPROXIMATE FIFTY-FOOT-WIDE STRIP CROSSING PARCELS 8.00, 9.00, 10.00, AND 12.00, ANDERSON COUNTY TAX MAP 100G, GROUP A, LOCATED ALONG THE SOUTH SIDE OF EMORY VALLEY ROAD FROM FRANKLIN ROAD HEADING EAST TO THE WEST BOUNDARY OF 707 EMORY VALLEY ROAD, THENCE HEADING SOUTH ALONG THE BOUNDARY LINE ENDING AT THE RIGHT-OF-WAY OF FAIRBANKS ROAD, FROM RG-1, RESIDENTIAL, OPEN SPACE AND RESERVED TO IND-1, INDUSTRIAL.

WHEREAS, the following change has been submitted for approval or disapproval to the Oak Ridge Municipal Planning Commission and the Commission has approved the same; and

WHEREAS, a public hearing thereon has been held as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE TENNESSEE:

Section 1. The district boundaries of the zoning map attached to and made a part of Ordinance No. 2, as amended, are revised in the following particulars:

<u>Property Description</u>	<u>Location</u>	<u>Present Zoning District</u>	<u>New Zoning District</u>
An approximate fifty-foot-wide strip crossing Parcels 8.00, 9.00, 10.00, and 12.00, Anderson County Tax Map 100G, Group A (± 1.55 Acres)	South side of Emory Valley Road from Franklin Road heading east to the west boundary of 707 Emory Valley Road, thence heading south along the boundary line ending at the right-of-way of Fairbanks Road	RG-1, Residential, Open Space and Reserved	IND-1, Industrial

Section 2. The changes shall be imposed upon said map and shall be as much a part of Ordinance No. 2 as if fully described therein.

Section 3. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, Acting City Clerk

Public Hearing: 10/10/11  
 Publication Date: 9/23/11  
 First Reading: 10/10/11  
 Publication Date: 10/17/11  
 Second Reading: \_\_\_\_\_  
 Publication Date: \_\_\_\_\_  
 Effective Date: \_\_\_\_\_

**COMMUNITY DEVELOPMENT MEMORANDUM  
PLANNING DIVISION  
11-67**

DATE: September 26, 2011

TO: Mark Watson, City Manager

FROM: Kathryn G. Baldwin, Community Development Director 

THROUGH: Monica Austin Carroll, AICP, Community Development Division Manager 

RE: **REVISIONS FOR THE ZONING ORDINANCE**

An item for the City Council agenda on October 10, 2011 is revisions to the Zoning Ordinance. The amendments were recommended for approval at the Planning Commission meeting on August 25, 2011 by a vote of 8 – 0 and additional amendments were recommended for approval on September 22, 2011 by a vote of 6 - 0. Over the past few months, Planning staff has identified areas in the Zoning Ordinance that were either not addressed, did not meet the criteria as prescribed in our Zoning Ordinance, or needed clarification. Below is a list of individual provisions that need revisions. The added revisions are identified in bold print and the deletions are identified as the strikethroughs.

●Section 3.18 Temporary Use Permits (d) Outdoor Displays, Sales of Seasonal Foods or Merchandise

3. Such merchandise *and/or sales* shall ~~not be displayed on any sidewalks, walkways, fire lanes, loading areas, driveways, or other vehicle ways that are~~ **be allowed only in designated paved parking areas provided that they do not interfere with essential for safe vehicular circulation on the site;**

**Planning Staff Comment:** This amendment will address outdoor displays, sales, and storage of merchandise within common areas of commercial sites for temporary uses. This amendment will require that the display, sale or storage of such merchandise for the temporary use be conducted within the designated parking areas to prevent utilizing green space or common areas for such display, sale or storage.

●Section 13.01 (a)

The standards which follow translate these purposes into criteria for design. This article also outline the process which applicants must follow to seek approval of their projects by the Oak Ridge Municipal Planning Commission (Planning Commission) and city staff. **Site plan approval expires one year from the final approval date.**

**Planning Staff Comment:** This amendment provides an expiration of approval for site plans. (The intent is to require within one year of approval of the site plan encourage site construction.)

●Section 13.02 (d) Architectural Character 1. Compatibility With Surroundings

The uses of certain materials as the primary exterior building material are prohibited in all commercial, office and multifamily residential (residential with more than four (4) attached housing units) zones *and for all non-residential uses within residential and special district zones.*

**Planning Staff Comment:** This amendment is to provide clarity that the limitations of certain building materials also applies to all non-residential uses within residential zoning districts and within all existing special district zones such as schools, churches, apartments, or offices.

●Section 13.02 (e) Parking Configurations 2. Reduction in Apparent Size and Visibility of Parking Areas

Lines of parking spaces should have a limited run: there shall be no more than 15 contiguous parking spaces between landscaped islands within all commercial, *office, multifamily residential (residential with more than four (4) attached housing units)* zones *and for all non-residential uses within residential and special district zones.*

**Planning Staff Comment:** This amendment is to provide clarity that the limited run of parking spaces also applies to all non-residential uses within residential zoning districts and within all existing special district zones such as schools, churches, apartments or offices.

●Section 13.02 (e) Parking Configurations 3. Design of Parking Configuration Within IND-1, IND-2, and IND-3 Districts

Add the following language:

Within Industrial Districts, parking areas shall have no more than twenty (20) contiguous parking spaces without an intervening landscape island. *80% of all islands shall have at least one (1) tree planted.* Service/delivery areas are to be exempted from the parking configuration requirements. The ratio of Required Landscaped Area per square foot of paved area is eight percent (8%). Basic plantings around the foundation of the building are strongly encouraged and at all entrances into the site. For every 200 square feet of landscaped area, one (1) tree must be planted.

*In no instance shall pavement on any site be closer than five (5) feet from a side or rear lot line, with the exception of a joint access easement.*

**Planning Staff Comment:** This amendment is to provide consistency that parking lot guidelines are the same for commercial sites and industrial sites.

●Section 13.02 (f) Landscape 2. Streetscape

In an effort to minimize the visual impact of parking areas in commercial, office, and multifamily residential (residential with more than four (4) attached housing units) zoning districts, shrub rows shall be planted within the Streetscape area at a minimum height of three (3) ~~feet~~ feet high along the boundaries of any parking area visible from public *or private* streets. Species used shall be evergreen or have dense branching qualities, which provide an effective visual screen in all seasons. Consideration may be given to shrubs with 30-inch height in certain locations, based on species.

**Planning Staff Comment:** This amendment addresses parking lots that abut private streets but are visible from public streets. This amendment requires that the parking lots be screened along the boundaries of both public and private streets.

●Section 13.02 (f) 4. Maintenance (4)

In all ~~O-1 and O-2 Office Districts and B-2, UB-2 and B-3 Commercial Districts~~ *office, commercial, multi-family residential (residential with more than (4) attached housing units) zones, and for all non-residential uses within residential and special district zones*, either a permanent irrigation system shall be installed or a maintenance bond shall be posted for ~~the first year~~ *two years* from the date of the issuance of the Certificate of Occupancy. For all lots on which impervious surfaces, excluding structures, exceeds 7,500 square feet, the irrigation system shall be designed to provide total water coverage to all required planting beds. A plumbing permit must be obtained prior to beginning any installation. In the event a moratorium on water usage is declared this requirement will be suspended for the length of the moratorium.

**Planning Staff Comment:** This amendment will require that all site plans either install an irrigation system for the landscaping or post a maintenance bond for two (2) years from the date of the issuance of the Certificate of Occupancy.

●Section 13.02 (h) 2. Site and Parking Area Lighting

In office zone districts, multifamily residential uses (residential with more than four (4) attached housing units), *and for all non-residential uses within residential and special district zones* the maximum lighting height shall be 24 feet. In all commercial zone districts the maximum lighting height shall be 30 feet. Lighting fixtures should be compatible in style with associated buildings. For non-residential uses in residential districts the maximum height shall be 24 feet.

**Planning Staff Comment:** This amendment is to provide clarity that the height restriction for outdoor lighting also applies to all non-residential uses within residential zoning districts and within all existing special district zones such as schools, churches, apartments, or offices.

●Section 14.05 General Requirements

4. Temporary signs, as defined in this article, shall be allowed in all other zoning districts only for special events such as, but not limited to, art and cultural events; recreation and sporting events; city, county or state sponsored events; and appertaining to campaigns, drives or events of civic, philanthropic, educational or religious organizations. This section shall also apply to all non-profit organizations in all zoning districts. Permits for such signs shall not exceed thirty (30) consecutive days. Such signs shall be allowed to be displayed the week prior to the individual special event and removed two (2) days after cessation of the individual special event. Signs may be interchanged to advertise individual activities throughout the thirty (30) day period. Temporary signs shall be non-illuminated and shall not exceed thirty-two (32) square feet of surface display area. One (1) temporary sign on-site and three (3) temporary off-site signs for special scheduled recreation and sporting events shall be allowed. Off-site signs shall not be placed within any public rights-of-way unless written permission is granted by the City and shall be removed the Monday following the scheduled event. Only one (1) permit shall be issued for a given place of business, *school or church* during any ~~four~~ *(4) three (3)* month

period. Temporary signs for athletic facilities/fields are defined in Section 14.07.

**Planning Staff Comment:** This amendment increases the number of temporary signs allowed per calendar year from three (3) to four (4).

●Section 14.06 Signs Allowed in All Districts (Exempt Signs)

8. Real estate marketing *or auction* signs provided that only one (1) non-illuminated sign per lot except where the lot fronts two (2) or more streets, one (1) additional sign per lot per street frontage shall be allowed; the total surface display area not to exceed thirty-two (32) square feet for non-residential (commercial and industrial zoning districts), sixteen (16) square feet for office-institutional zoning districts and six (6) square feet for residential zoning districts; shall not be over eight (8) feet in height measured from the ground level; may remain on the property the length of the sale and shall be removed ten (10) business days after the sale; and sign shall be maintained in good condition. A freestanding sign designed to be viewed from two (2) different directions shall be considered as one (1) sign, provided that the two (2) sign faces are parallel (back-to-back), mounted on the same support structures, and neither side exceeds 16 (sixteen) square feet. For all two-sided signs not mounted parallel (back-to-back), the total surface display area shall not exceed 16 (sixteen) square feet.

Signs for advertising open houses, including directional signs, shall be allowed three (3) days prior to the open house and removed the day after the open house. Note: Off-site directional signs are only allowed for the advertising of an open house and not for the sale of the house or place of business.

**Planning Staff Comment:** This amendment is to provide clarity that the regulations for real estate marketing signs are also applicable to auction signs.

●Section 16.12 (a) Uses Requiring Planning Commission Approval

All proposed uses of a parcel/lot in the UB-2, B-1, O-2 and MH-1 zoning districts, except as identified in Sections 16.13 and 16.14 of this ordinance, shall only be permitted after a site plan showing the proposed development of the parcel/lot is reviewed by the City Manager for compliance with all ordinances and regulations and is approved by the Oak Ridge Regional ~~Regional~~ **Municipal** Planning Commission.

**Planning Staff Comment:** This amendment is considered “housekeeping” and corrects a previous omission when the title of the Planning Commission was changed.

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

Mark S Watson      10/3/11  
Mark Watson                      Date

TITLE

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE, BY AMENDING SECTION 3.18, TITLED "TEMPORARY USE PERMITS," SUBSECTION (D)(3) TO CLARIFY THAT SALES ARE PERMITTED IN PAVED PARKING AREAS PROVIDED IT DOES NOT INTERFERE WITH VEHICULAR CIRCULATION ON THE SITE; SECTION 13.01, TITLED "INTRODUCTION," SUBSECTION (A) TO ADD THAT SITE PLAN APPROVAL EXPIRES ONE YEAR FROM THE FINAL APPROVAL DATE; SECTION 13.02, TITLED "DESIGN REVIEW STANDARDS," SUBSECTIONS (D)(1), (E)(2), AND (H)(2) TO EXPAND THE APPLICABLE ZONES; SECTION 13.02, TITLED "DESIGN REVIEW STANDARDS," SUBSECTION (E)(3) TO PLACE A REQUIREMENT ON TREE PLANTING IN ISLANDS AND TO PLACE A PAVEMENT DISTANCE FROM REAR AND SIDE LOT LINES; SECTION 13.02, TITLED "DESIGN REVIEW STANDARDS," SUBSECTIONS (F)(2) TO REQUIRE SHRUB ROWS TO BE PLANTED TO SCREEN A PARKING LOT THAT CAN BE VIEWED FROM A PRIVATE STREET AND NOT JUST A PUBLIC STREET; SECTION 13.02, TITLED "DESIGN REVIEW STANDARDS," SUBSECTION (F)(4)(A)(4) TO EXPAND THE APPLICABLE ZONES AND TO REQUIRE THE MAINTENANCE BOND TO BE POSTED FOR TWO YEARS INSTEAD OF ONE IF A PERMANENT IRRIGATION SYSTEM HAS NOT BEEN INSTALLED; SECTION 14.05, TITLED "GENERAL REQUIREMENTS," PART (4) TO INCLUDE SCHOOLS AND CHURCHES AS A BUSINESS THAT CAN BE ISSUED A TEMPORARY PERMIT AND TO LIMIT THE NUMBER OF PERMITS TO ONE DURING ANY THREE MONTH PERIOD INSTEAD OF ONE DURING ANY FOUR MONTH PERIOD; SECTION 14.06, TITLED "SIGNS ALLOWED IN ALL DISTRICTS (EXEMPT SIGNS)," PART (8) TO INCLUDE AUCTION SIGNS; AND SECTION 16.12, TITLED "USES REQUIRING PLANNING COMMISSION APPROVAL," SUBSECTION (A) TO CORRECT THE REFERENCE TO THE OAK RIDGE MUNICIPAL PLANNING COMMISSION.

WHEREAS, the City of Oak Ridge is continually reviewing the Zoning Ordinance to update provisions and make it more understandable to the general public; and

WHEREAS, the amendments will update the Zoning Ordinance to address items that were absent, did not meet the prescribed criteria, and were in need of clarification; and

WHEREAS, the following changes have been submitted for approval or disapproval to the Oak Ridge Municipal Planning Commission and the Commission has approved the same; and

WHEREAS, a public hearing thereon has been held as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 3.18, titled "Temporary Use Permits," Subsection (d), titled "Outdoor Displays, Sales of Seasonal Foods or Merchandise," is hereby amended by deleting Part (3) in its entirety and substituting therefor a new Part (3), which new part shall read as follows:

**Section 3.18. Temporary Use Permits**

(d) Outdoor Displays, Sales of Seasonal Foods or Merchandise

3. Such merchandise and/or sales shall be allowed only in designated paved parking areas provided that they do not interfere with safe vehicular circulation on the site;

Section 2. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 13.01, titled "Introduction," Subsection (a), titled "Basis for the Standards," is hereby amended by adding a new sentence to the end of the stand alone, un-numbered paragraph, which new sentence shall read as follows:

**Section 13.01. Introduction**

(a) Basis for the Standards

.... Site plan approval expires one year from the final approval date.

Section 3. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 13.02, titled "Design Review Standards," Subsection (d), titled "Architectural Character," Part (1), titled "Compatibility With Surroundings," is hereby amended by adding on to the first sentence of the third paragraph, which addition shall read as follows:

**Section 13.02. Design Review Standards**

(d) Architectural Character

1. *Compatibility With Surroundings.*

... and for all non-residential uses within residential and special district zones.

Section 4. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 13.02, titled "Design Review Standards," Subsection (e), titled "Parking Configurations," Part (2), titled "Reduction in Apparent Size and Visibility of Parking Areas," is hereby amended by adding on to the first sentence of the fourth paragraph, which addition shall read as follows:

**Section 13.02. Design Review Standards**

(e) Parking Configurations

2. *Reduction in Apparent Size and Visibility of Parking Areas.*

..., office, multifamily residential (residential with more than four (4) attached housing units) zones and for all non-residential uses within residential and special district zones.

Section 5. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 13.02, titled "Design Review Standards," Subsection (e), titled "Parking Configurations," is hereby amended by deleting Part (3), titled "Design of Parking Configuration Within IND-1, IND-2, and IND-3 Districts," in its entirety and substituting therefor a new Part (3) of the same title, which part shall read as follows:

**Section 13.02. Design Review Standards**

(e) Parking Configurations

3. *Design of Parking Configuration Within IND-1, IND-2, and IND-3 Districts.*

Within Industrial Districts, parking areas shall have no more than twenty (20) contiguous parking spaces without an intervening landscape island. Eighty percent (80%) of all islands shall have at least one (1) tree

planted. Service/delivery areas are to be exempted from the parking configuration requirements. The ratio of Required Landscaped Area per square foot of paved area is eight percent (8%). Basic plantings around the foundation of the building are strongly encouraged and at all entrances into the site. For every 200 square feet of landscaped area, one (1) tree must be planted.

In no instance shall pavement on any site be closer than five (5) feet from a side or rear lot line, with the exception of a joint access easement.

Section 6. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 13.02, titled "Design Review Standards," Subsection (f), titled "Landscape," Part (2), titled "Streetscape," is hereby amended by adding the phrase "or private" between the words "public" and "street" in the first sentence of the last paragraph.

Section 7. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 13.02, titled "Design Review Standards," Subsection (f), titled "Landscape," Part (4), titled "Maintenance," is hereby amended by deleting Subpart (a)(4) in its entirety and substituting therefor a new Subpart (a)(4), which subpart shall read as follows:

**Section 13.02. Design Review Standards**

(f) Landscaping

4. *Maintenance.*

- (a)(4) In all office, commercial, multi-family residential (residential with more than (4) attached housing units) zones, and for all non-residential uses within residential and special district zones, either a permanent irrigation system shall be installed or a maintenance bond shall be posted for two years from the date of the issuance of the Certificate of Occupancy. For all lots on which impervious surfaces, excluding structures, exceeds 7,500 square feet, the irrigation system shall be designed to provide total water coverage to all required planting beds. A plumbing permit must be obtained prior to beginning any installation. In the event a moratorium on water usage is declared this requirement will be suspended for the length of the moratorium.

Section 8. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 13.02, titled "Design Review Standards," Subsection (h), titled "Lighting," Part (2), titled "Site and Parking Area Lighting," is hereby amended by adding the phrase "and for all non-residential uses within residential and special district zones" immediately after the parenthetical language in the first sentence of the second paragraph.

Section 9. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 14.05, titled "General Requirements," Part (4), is hereby amended by deleting the second to last sentence in its entirety and substituting therefor a sentence, which new sentence shall read as follows:

**Section 14.05. General Requirements**

4. ... Only one (1) permit shall be issued for a given place of business, school or church during any three (3) month period. ...

Section 10. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 14.06, titled "Signs Allowed in All Districts (Exempt Signs)," Part (8), is hereby amended by adding the phrase "or auction" between the words "marketing" and "sign" in the first sentence of the first paragraph.

Section 11. Ordinance No. 2, titled "The Zoning Ordinance of the City of Oak Ridge, Tennessee," Section 16.12, titled "Uses Requiring Planning Commission Approval," Subsection (a) is hereby amended by deleting the word "Regional" and replacing it with the word "Municipal."

Section 12. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Thomas L. Beehan, Mayor

\_\_\_\_\_  
Diana R. Stanley, Acting City Clerk

Public Hearing: 10/10/11  
Publication Date: 9/23/11  
First Reading: 10/10/11  
Publication Date: 10/17/11  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

**ELECTIONS**  
**&**  
**APPOINTMENTS**  
**ANNOUNCEMENTS**  
**SCHEDULING**

**CITY CLERK MEMORANDUM**

**11-52**

**DATE:** November 4, 2011

**TO:** Honorable Mayor and Members of City Council  
Mark S. Watson, City Manager

**FROM:** Diana R. Stanley, City Clerk

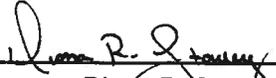
**SUBJECT:** UPDATED NOTICE OF ELECTIONS FOR BOARDS AND COMMISSIONS

The City Clerk's Office has completed a list of vacancies for Boards and Commissions that will be filled during the December 19, 2011 Special Meeting of City Council.

As outlined on the Notice of Elections, the deadline for applicants is Monday, November 21, 2011 by 5:00 p.m. City Council will receive a report, including applications and resumes from interested citizens from the City Clerk on Monday, December 5, 2011, by 5:00 p.m.

The City Clerk's Office has been working with the Office of Government and Public Affairs to publicize the vacancies and generate citizen interest in applying. The Chamber of Commerce and Convention and Visitors Bureau have also assisted in recruitment efforts.

Current board members have also been contacted to inform them about their upcoming vacancies and instructions were provided on how-to reapply.

  
Diana R. Stanley

Attachments

# 2011 ELECTION NOTICE

## BOARDS AND COMMISSIONS

The Oak Ridge City Council will appoint members to serve on the following boards or commissions at a special meeting of the Council scheduled for December 19, 2011.

BOARD, COMMISSION OR COMMITTEE	NUMBER OF VACANCIES	TERM OF OFFICE	QUALIFICATIONS	INCUMBENTS
Beer Permit Board	2	(1) Balance of an unexpired term ending on December 31, 2012 (vacant). (1) Balance of an unexpired term ending on December 31, 2014 (vacancy).	Members must be at least twenty-two (22) years old and have been residents of Oak Ridge for at least two (2) years.	None
Board of Building and Housing Code Appeals	2	(2) Three years commencing on January 1, 2012.	The vacancies are for one building related contractor or building supply dealer and the other is from the public-at-large.	Phillip W. Nipper Amy L. Seiber
Convention and Visitors Bureau	4	(3) Three years commencing on January 1, 2012. (1) Balance of an unexpired term ending on December 31, 2012.	The vacancies are for the public-at-large.	Patti Loch Shelton Carol Smallridge
Elder Citizens Advisory Board	5	(4) Three years commencing on January 1, 2012. (1) Balance of an unexpired term ending on December 31, 2012.	The vacancies are for representatives from each of the following: Oak Ridge Retired Teachers Association; American Association of Retired Persons, Oak Ridge Chapter; The 43 Club. The remaining vacancies is for the public-at-large.	James T. Gillespie Charles Jones David McCoy Minnie Thompson
Environmental Quality Advisory Board	6	(2) Balance of an unexpired term ending on December 31, 2013. (4) Three years commencing on January 1, 2012.	The vacancies are for the public-at-large while one vacancy is a representative of the Oak Ridge Planning Commission	Chuck Agle, Planning Commission Representative Patricia S. Imperato Robert G. Kennedy, III David J. Weston, Ph.D.

Health and Educational Facilities Board	3	(1) Six years commencing on January 1, 2012	The vacancies are for the public-at-large	Lynn Cardwell Fay Maureen Martin David L. Mason Francis L. Silver
Oak Ridge Housing Authority	1	(1) Five years commencing on January 1, 2012	The vacancy is for the public-at-large.	Mary Frances Tolliver Martha Wallus
Personnel Advisory Board	2	(2) Three years commencing on January 1, 2012	The vacancies are for the public-at-large	William A. Davis Jason C. Elliott
Traffic Safety Advisory Board	4	(2) Balance of an unexpired term ending on December 31, 2013. (2) Three years commencing on January 1, 2012.	The vacancies are for the public-at-large	
Board of Zoning Appeals	1	(1) Five years commencing on January 1, 2012	The vacancy is for the public-at-large.	David R. Gengozian
Anderson County Community Action Commission	1	(1) One year commencing on January 1, 2012	One (1) seat on that Board is reserved for a representative of the City of Oak Ridge. The representative may be any citizen of Oak Ridge, including a member of City Council.	Edward Alan Beauchamp
Anderson County Economic Development Association	2	(1) Four years commencing on January 1, 2012 (1) Balance of an unexpired term ending on December 31, 2013	There are no special qualifications for the undesignated seats beyond Oak Ridge residency.	Leonard A. Abbatiello

Individuals interested in serving on the above boards or commissions must submit a completed Boards and Commissions application to the City Clerk's Office in the Municipal Building by 5:00 p.m. on **Monday, November 21, 2011**. **APPLICANTS MUST BE RESIDENTS OF THE CITY OF OAK RIDGE.**

Applicants may submit a resume in addition to the application. Please visit the City's website at [www.oakridgetn.gov](http://www.oakridgetn.gov) for information regarding the Boards and Commissions.

For further information, call the Acting City Clerk,  
Diana R. Stanley at 425-3411.

**SUMMARY  
OF  
CURRENT EVENTS**

**PUBLIC WORKS DEPARTMENT MEMORANDUM**  
**11-30**

DATE: November 4, 2011

TO: Mark S. Watson, City Manager 

FROM: Gary M. Cinder, P.E., Public Works Director 

**SUBJECT: WINTER STORM PLAN**

A new Winter Storm Plan is being planned by the Public Works Department that will change the way snow and ice storm events are handled. Due to a shortage of available salt, the dramatic price increase and the high cost of overtime response to nighttime and weekend events, the decision was made to revise the current practice of how the City maintains streets during a winter weather event. When snow or ice is predicted, Public Works personnel will begin to pre-treat the streets with a salt brine solution similar to the treatment that TDOT utilizes on State highways and interstates.

The Public Works Department will manufacture, store and utilize salt brine as a tool in managing frozen precipitation on roadways during the winter season. The primary goal of using salt brine is to delay freezing precipitation from adhering to roads during a winter weather event and/or when low temperatures can cause ice to form on bridges. The brine is applied prior to the potential of freezing conditions. By applying the brine before a predicted event during regular work hours, overtime expenses may be less, by reducing the need to call in employees on an overtime basis to treat bridges and overpasses that have a tendency to freeze overnight or when light snow showers leave a dusting on the roadways.

Brine is applied as a liquid (with a freezing temperature of approximately 6 degrees) to road surfaces in advance of a predicted snow event. Ideally, pre-storm applications are done during dry weather, allowing the brine to dry completely and become embedded into the asphalt before frozen precipitation (snow/ice) arrives. When snow hits the asphalt, the brine activates and immediately lowers the freezing point of water. The melting process of the snow does not happen immediately. Streets may appear to be completely snow covered, but don't be deceived, as the objective of brine is to prevent the bond of ice or snow to the roadway, not to melt it; which allows for smooth and easy plowing during the weather event. The industry refers to this as a "squeegee" removal process rather than plowing, as the snow plows are equipped with rubber strips which make contact with the pavement.

Previously when the snow began to fall, the Police Dispatcher would call the Public Works on call supervisor and they would immediately respond. The Dispatcher will now call the Winter Storm supervisor who will make a determination as to what steps are needed to keep the streets safe for the motoring public. A complete Winter Weather Plan is currently being prepared, and when completed it will be posted on the City website and the local media will be given the information.

The City maintained streets have been prioritized into four categories according to volume of traffic and public health and safety factors.

- **Level 1:** State Highways and Hospital Routes (80 lane miles)
- **Level 2:** Arterial Streets, feeder streets to State highways and common trouble spots (55 lane miles)
- **Level 3:** Collector streets, streets providing access to subdivisions and the main connections at the neighborhood level (97 lane miles)
- **Level 4:** All other local neighborhood streets (240 lane miles)

The treatment of Level 3 and 4 streets will be determined by several factors including the timing of the precipitation, current and predicted weather conditions along with available materials and personnel. A complete listing of streets in each category will be included in the Winter Weather Plan along with more information on the salt brine process and the traditional salting and plowing methods.