

OAK RIDGE CITY COUNCIL MEETING

Municipal Building Courtroom

January 12, 2009 – 7:00 p.m.

AGENDA

1. **INVOCATION**

The Reverend David Allred, High Places Community Church

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **APPEARANCE OF CITIZENS**

5. **APPROVAL OF AGENDA**

6. **RECOGNITION OF VISITORS**

7. **PROCLAMATIONS AND COURTESY RESOLUTIONS**

A proclamation designating January 25–31, 2009 as “School Board Appreciation Week.”

8. **PUBLIC HEARING** – None

9. **CONSENT AGENDA**

a. Approval of the Minutes of the December 15, 2008 City Council Meeting.

b. Adoption of a resolution accepting a grant from the State of Tennessee Emergency Management Agency for U.S. Department of Energy pass-through funding in the amount of \$15,000 for use by the Fire Department for emergency management and/or hazmat response purposes.

c. Adoption of a resolution authorizing the modification of the “Generation Partners Agreement Between Oak Ridge, Tennessee and Tennessee Valley Authority” (Contract Number 00067538) and the “Demand Generation Partners Agreement Between Oak Ridge, Tennessee and Tennessee Valley Authority” (Contract Number 00067539), by extending the agreements for an additional six months and changing the termination periods as outlined in the attached letters from TVA, dated December 16, 2008, thus maintaining the framework for the City to offer two pilot programs to its citizens designed to evaluate the financial and operational feasibility of customer owned renewable power generation, including photovoltaic and wind turbine sources.

10. **SPECIAL REPORTS**

a. Mayor and City Council

b. Special Committees

Intergovernmental Relations Special Committee Report and Recommendation

Mayor Tom Beehan, Chair

c. Boards and Commissions

- d. Other

11. **APPROVAL OF MINUTES**

12. **ORDINANCES**

- a. First Reading of New Ordinances – None
- b. Adoption of Ordinances (Second Reading)

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 009.00, MAP 106G, GROUP B, FROM IND-2, INDUSTRIAL TO UB-2, UNIFIED GENERAL BUSINESS; AND AMENDING THE COMPREHENSIVE PLAN'S LAND USE PLAN BY CHANGING THE DESIGNATION OF PARCEL 009.00, MAP 106G, GROUP B, FROM I, INDUSTRIAL TO B, GENERAL BUSINESS.

AN ORDINANCE TO AMEND TITLE 18, TITLED "WATER AND SEWERS," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING CHAPTER 3, TITLED "SEWER USE ORDINANCE," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW CHAPTER 3, TITLED "SEWER USE ORDINANCE," TO UPDATE THE EXISTING SEWER USE PROVISIONS FOR COMPLIANCE WITH THE REQUIREMENTS SET FORTH BY THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION.

13. **RESOLUTIONS**

- a. General Resolutions

A resolution approving the permanent common access to Emory Valley Road from Anderson County Tax Map 100G, Group A, Parcels 8 and 9, as shown on the drawing attached hereto, dated December 3, 2008.

A resolution agreeing to a one-time contribution of \$20,000 to the Oak Ridge Chamber of Commerce to assist with the direct costs of funding a Relocation Specialist position, which position shall be dedicated to attracting new residents to the City in light of the Chamber's "Live-Where-You-Work" Task Force recommendations.

- b. Bids and Contracts

A resolution approving Amendment No. 10 to AGREEMENT PILT-OAK RIDGE-002 between the U. S. Department of Energy and the City of Oak Ridge for payment in lieu of taxes for tax year 2008 in the sum of \$1,476,023.48 in full satisfaction and release of any claims against DOE and its contractors based on or measured by the value of federal property utilized by such contractors in the performance of activities of DOE in the City of Oak Ridge.

A resolution extending for an additional six (6) months the Professional Services Agreement between the City of Oak Ridge and The Ferguson Group, LLC, for the provision of consulting services to develop a comprehensive federal government relations agenda and action plan to secure federal appropriations for agreed upon priorities for the City, with such extension to be under the same terms and conditions and in the estimated amount of \$51,000.00.

A resolution extending for an additional six (6) months the Professional Services Agreement between the City and Bill Nolan and Associates for the provision of consulting services in the area of relations with the Tennessee General Assembly and the Executive Branch of the State of Tennessee for agreed upon priorities for the City, with such extension to be under the same terms and conditions and in the estimated amount of \$27,900.00.

14. **ELECTIONS**

Election of one (1) member to serve on the Board of Directors of the Anderson County Community Action Commission for the balance of an unexpired term of office ending on June 30, 2009.

Election of one (1) member to serve on the Environmental Quality Advisory Board for the balance of an unexpired term of office ending on September 29, 2009.

Notice of Elections

Two (2) elections are scheduled for the February 9, 2009 City Council meeting to appoint:

- Three (3) members to the Health and Educational Facilities Board
- Two (2) members to the Oak Ridge Municipal Planning Commission

The deadline for filing is 5:00 p.m. on Tuesday, January 27, 2009.

15. **COMMUNICATIONS**

16. **CITY MANAGER'S REPORT**

17. **CITY ATTORNEY'S REPORT**

18. **UNFINISHED BUSINESS**

19. **NEW BUSINESS**

20. **MISCELLANEOUS**

21. **UPCOMING MEETINGS/MAJOR ISSUES**

22. **ADJOURNMENT**

CITY CLERK MEMORANDUM
08-68

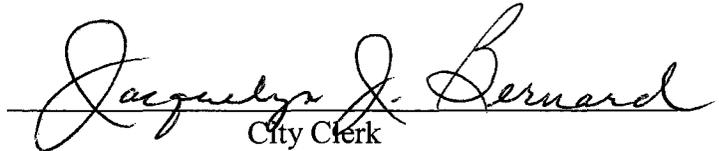
DATE: December 31, 2008

TO: Honorable Mayor and Members of City Council

FROM: Jacquelyn J. Bernard, City Clerk

SUBJECT: PROCLAMATION: School Board Appreciation Week

The attached proclamation is presented for the Council's consideration at the request of Dr. Tom Bailey, Superintendent of Oak Ridge Schools.


City Clerk

Attachment

PROCLAMATION

WHEREAS, an excellent public education system is vital to the quality of life of our communities; and

WHEREAS, school board members represent a tremendous resource as local decision makers, responding to the challenges of creating 21st Century schools that meet Tennessee's higher education standards; and

WHEREAS, school board members serve their communities by representing the interests of school children and preparing them for the future; and

WHEREAS, the men and women elected by the people as members of our local school board deserve recognition and thanks for their countless hours of service to public education in Tennessee.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE CITY, TENNESSEE, that the week of January 25-31, 2009, be proclaimed

SCHOOL BOARD APPRECIATION WEEK

in the City of Oak Ridge, Tennessee, and that all citizens be encouraged to honor this worthy observance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Oak Ridge to be affixed, this the 12th day of January in the year 2009.

MAYOR

CITY CLERK MEMORANDUM
08-69

DATE: December 31, 2008

TO: Honorable Mayor and Members of City Council

FROM: Jacquelyn J. Bernard, City Clerk

SUBJECT: CONSENT AGENDA

The following items are presented for the Council's consideration as the Consent Agenda for the January 12, 2009 City Council meeting.

Approval of Minutes – December 15, 2008

Resolutions – General

Adoption of a resolution accepting a grant from the State of Tennessee Emergency Management Agency for U.S. Department of Energy pass-through funding in the amount of \$15,000 for use by the Fire Department for emergency management and/or hazmat response purposes.

Resolutions – Bids and Contracts

Adoption of a resolution authorizing the modification of the "Generation Partners Agreement Between Oak Ridge, Tennessee and Tennessee Valley Authority" (Contract Number 00067538) and the "Demand Generation Partners Agreement Between Oak Ridge, Tennessee and Tennessee Valley Authority" (Contract Number 00067539), by extending the agreements for an additional six months and changing the termination periods as outlined in the attached letters from TVA, dated December 16, 2008, thus maintaining the framework for the City to offer two pilot programs to its citizens designed to evaluate the financial and operational feasibility of customer owned renewable power generation, including photovoltaic and wind turbine sources.

The documentation for these items follows this memorandum.


City Clerk

MINUTES OF THE OAK RIDGE CITY COUNCIL MEETING

December 15, 2008

The regular meeting of the City Council of the City of Oak Ridge, Tennessee, convened at 7:00 p.m. on December 15, 2008 in the Courtroom of the Municipal Building with Mayor Thomas L. Beehan presiding.

INVOCATION

The Invocation was given by Dr. R. Boyd Carter, Minister Emeritus, United Church Chapel on the Hill

PLEDGE OF ALLEGIANCE

Mr. Kevin Smith, Deputy Manager of the Y-12 Site Office, NNSA, led the Pledge of Allegiance to the Flag of the United States of America.

ROLL CALL

The following members of City Council were present: Willie Golden, Jr., Thomas W. Hayes, L. Charles Hensley, D. Jane Miller, David N. Mosby, Ellen D. Smith, and Mayor Thomas L. Beehan.

Also present were James R. O'Connor, City Manager; Kenneth R. Krushenski, City Attorney; Steven W. Jenkins, Deputy City Manager; and Jacquelyn J. Bernard, City Clerk.

APPEARANCE OF CITIZENS

FY 2010 City Budget

Noting that the Council's Budget and Finance Special Committee has begun its deliberations with reference to the upcoming City Budget, Mr. Andy Marathe, 121 Westlook Circle, urged that consideration be given to the adoption of a budget that reflects a reduction in the property tax rate.

APPROVAL OF AGENDA

Councilwoman Miller moved that the agenda be amended to allow the following resolution, which appears under Bids and Contracts, to be considered under Recognition of Visitors:

A resolution authorizing the City to participate in the *America's Veterans to Tennessee's Engineers* program and to sign the Memorandum of Agreement as a supporting organization.

The motion was seconded by Councilman Hensley and carried by unanimous voice vote with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith and Mayor Beehan voting "Aye."

Councilman Hensley then moved that the agenda be approved as amended. The motion was seconded by Councilwoman Miller and carried by unanimous voice vote with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith and Mayor Beehan voting "Aye."

RECOGNITION OF VISITORS

Resolution No. 12-104-08

A resolution authorizing the City to participate in the *America's Veterans to Tennessee's Engineers* program and to sign the Memorandum of Agreement as a supporting organization.

Councilman Golden moved that the resolution be adopted, seconded by Councilwoman Miller.

Mr. Kevin Smith, Deputy Manager of the Y-12 Site Office, NNSA, presented an overview of the *America's Veterans to Tennessee's Engineers* program, then responded to Council members' questions and comments in this regard.

Mr. Andy Marathe, 121 Westlook Circle, expressed support for the City's participation in this program.

The resolution was adopted by unanimous voice vote with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith and Mayor Beehan voting "Aye."

PROCLAMATIONS AND COURTESY RESOLUTIONS - None

PUBLIC HEARING

A public hearing was held on the following:

Amendment of the Hendrix Creek Planned Unit Development to remove the open space designation for Parcel 572.05, located on the corner of Heritage Drive at Hendrix Drive, to allow the construction of a single-family home.

Mr. Jack Mansfield of 159 Hendrix Drive, who along with his wife is the owner of the subject property, presented a statement in support of their request for removal of the open space designation.

Statements in opposition to the removal of the open space designation were presented by Ms. Joyce Cardwell, 104 Holbrook Lane; Mr. Bill Simpson, 102 Holbrook Lane; and Mr. Kent Peters, 100 Holbrook Lane.

Rezoning of Parcel 9.00, Map 106G, Group B, located at the intersection of Union Valley Road and S. Illinois Avenue, from IND-2, Industrial, to UB-2, Unified General Business; and amendment of the Comprehensive Plan's Land Use Plan to change the designation of the parcel from I, Industrial, to B, General Business.

The City Manager reviewed this rezoning proposal, which was initiated by Mr. Samuel J. Furrow of Knoxville who owns the subject property, and advised that the Oak Ridge Municipal Planning Commission recommended approval of the rezoning and Land Use Plan amendment by a vote of 8/0.

Mr. Andy Marathe, 121 Westlook Circle, expressed his support for approval of the rezoning as presented.

CONSENT AGENDA

Councilwoman Smith moved that the Consent Agenda be approved as presented. The motion was seconded by Councilman Hensley and was adopted, thereby:

- Approving the Minutes of the November 17, 2008 City Council meeting;
- Adopting **Resolution No. 12-105-08** authorizing the transfer of tax equivalents from the Electric Fund and the Waterworks Fund to the General Fund with such funds to then be distributed to the respective taxing jurisdictions as follows: \$1,225,139 to the City of Oak Ridge, \$307,775 to Anderson County, and \$47,911 to Roane County from the Electric Fund, and \$1,478,023 from the Waterworks Fund to the City of Oak Ridge;

- Adopting **Resolution No. 12-106-08** waiving competitive bids and making award in the estimated amount of \$28,797.60 to Stryker EMS Equipment, Portage, Minnesota, for the furnishing of two ambulance stretchers; and
- Adopting **Resolution No. 12-107-08** awarding bids in the grand total estimated amount of \$124,840.00 to Municipal Equipment Services, Charlotte, North Carolina, for the furnishing of 10 Scott Air Paks, 20 carbon cylinders and valve assemblies, 20 face pieces for AV-3000, 20 Epic voice amplifiers, and 20 AV3000 adapters for Epic in the estimated amount of \$65,980.00 and 30 sets of firefighter protective clothing consisting of coats and pants in the estimated amount of \$58,860.00.

The vote was unanimous with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

SPECIAL REPORTS

Secret City Festival

Councilwoman Miller reported on the "Secret City Festival Kickoff" event that was held earlier this evening, advising that \$96,000 was raised to assist with the funding of the festival.

APPROVAL OF MINUTES

See Consent Agenda.

ORDINANCES

First Reading of New Ordinances

AN ORDINANCE TO AMEND THE USE DESIGNATION FOR PARCEL 3.00, MAP 100J, GROUP B, IN HENDRIX CREEK PLANNED UNIT DEVELOPMENT, PHASE IV, FROM OPEN SPACE TO RESIDENTIAL, WITH THE OVERALL ZONING DISTRICT REMAINING R-1-C/PUD, ONE-FAMILY RESIDENTIAL WITH A PLANNED UNIT DEVELOPMENT OVERLAY.

Councilwoman Smith moved that this ordinance be disapproved on first reading. The motion was seconded by Councilman Hensley and carried by unanimous roll call vote with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

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 009.00, MAP 106G, GROUP B, FROM IND-2, INDUSTRIAL TO UB-2, UNIFIED GENERAL BUSINESS; AND AMENDING THE COMPREHENSIVE PLAN'S LAND USE PLAN BY CHANGING THE DESIGNATION OF PARCEL 009.00, MAP 106G, GROUP B, FROM I, INDUSTRIAL TO B, GENERAL BUSINESS.

Councilwoman Miller moved that this ordinance be approved on first reading. The motion was seconded by Councilman Hensley and the issue was deliberated at some length, with the City Manager responding to the Council's questions and comments.

The ordinance was approved on first reading by roll call vote with Council members Golden, Hayes, Hensley, Miller, Mosby, and Mayor Beehan voting "Aye," and Councilwoman Smith voting "Nay."

Adoption of Ordinances (Second Reading)

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 29.3 ACRE PORTION OF PARCEL 1.01, MAP 101G, GROUP A, FROM R-1-B, ONE-FAMILY RESIDENTIAL DISTRICT, TO R-4, HIGH DENSITY RESIDENTIAL DISTRICT; AN APPROXIMATE 44.3 ACRE PORTION OF PARCEL 1.01, MAP 101G, GROUP A, FROM R-1-B, ONE-FAMILY RESIDENTIAL DISTRICT, TO B-2, GENERAL BUSINESS DISTRICT; AN APPROXIMATE 10.7 ACRE PORTION OF PARCEL 1.01, MAP 101G, GROUP A, FROM R-3, MULTIPLE-FAMILY RESIDENTIAL AND HOTEL DISTRICT, TO R-4, HIGH DENSITY RESIDENTIAL DISTRICT; AND AN APPROXIMATE 8.9 ACRE PORTION OF PARCEL 1.01, MAP 101G, GROUP A, FROM R-3, MULTIPLE-FAMILY RESIDENTIAL AND HOTEL DISTRICT, TO B-2, GENERAL BUSINESS DISTRICT; AND TO APPROVE THE REVISED PRELIMINARY MASTER PLAN FOR CENTENNIAL VILLAGE AT MELTON LAKE AS SUBMITTED BY CENTENNIAL VILLAGE DEVELOPMENT, LLC, WHICH CONTAINS A PUD, PLANNED UNIT DEVELOPMENT DISTRICT, OVERLAY ON SAID PARCEL; AND AMENDING THE COMPREHENSIVE PLAN'S LAND USE PLAN BY CHANGING THE DESIGNATION OF AN APPROXIMATE 76.8 ACRE PORTION OF SAID PARCEL FROM R, RESIDENTIAL AND P, PUBLIC TO B, GENERAL BUSINESS.

Councilman Golden moved that the ordinance be adopted, seconded by Councilman Hensley.

The City Manager reviewed the Council's action at the time of first reading of this ordinance, advising that it was approved conditional upon the presentation of a revised Centennial Village PUD Plan at the time of second reading which would reflect the following:

Revision of the Plan as submitted by reducing the density of Fairways Edge to 6 units/acre; the minimum lot size of Coldwater Creek and the Highlands shall be a minimum of 20,000 square feet for single-family detached homes (R-1A).

A corrected number of dwelling units shall be identified by the developer. In addition, the following conditions shall be memorialized in the notes section of the Master PUD Plan:

- Clearing and/or grading of Fairways Edge, Coldwater Creek and the Highlands shall be limited to cuts and fills necessary for construction of street and utility infrastructure.
- No grading is allowed within areas designated as open space with the exception of the access road shown in the southwest corner on the PUD Plan (see note #22).
- The developer will take reasonable steps necessary for the preservation of existing trees and tree lines wherever possible in coordination with city staff.
- No clearing or grading will be permitted until approval of the preliminary plat to ensure compliance with these provisions.

The City Manager went on to note that Mr. John Chilton, the Chief Manager of Centennial Village Development, LLC, delivered to the office this morning an aerial photograph and "Plan View" of the subject area with an attached communication to the Council that contains responses to the conditions approved on first reading of the ordinance. He called attention to the following statements contained in that communication:

We have met with City Staff and have agreed to the following:

1. To provide assurance that land will not be cleared and left for an indeterminate length of time, we will meet with City Staff to negotiate a plan for a phased development. An amendment to the PUD will be brought back to council later to address the details of the phased development plan.
2. As indicated in the roadway and site cross sections clearing and grading for the roads, utilities, and the building of lots must be done at the same time to achieve reasonable balance of earthwork cut and fill. This is a usual and customary building process since importing and/or haul-off of soils is prohibitively expensive. It is our intention to sell blocks of lots, which will require us to deliver "pad ready" sites. Pad ready sites are typically delivered on grade and ready to build on with minimal additional excavation. These finished lots would be sold in blocks of 30 to 40 lots to larger builders with Golf Community experience.

The City Manager advised that he had agreed to the first of these proposals in his meetings with Mr. Chilton, but not to the second.

Councilman Hensley moved that Section 4 of the Ordinance be amended to state:

The Planned Unit Development Revised Preliminary Master Plan for Centennial Village at Melton Lake is approved conditional upon revision of the Plan as submitted by Centennial Village Development, LLC, to reflect:

- Reduction of the density of Fairways Edge to 6 units/acre.
- A minimum lot size for Coldwater Creek and the Highlands of 20,000 square feet for single-family detached homes (R-1A).
- Identification of a corrected number of dwelling units by the developer.
- In addition, the following conditions shall be memorialized in the notes section of the Master PUD Plan:
 - Clearing and/or grading of Fairways Edge, Coldwater Creek and the Highlands shall be limited to cuts and fills necessary for construction of street and utility infrastructure.
 - No grading is allowed within areas designated as open space with the exception of the access road shown in the southwest corner on the PUD Plan (see note #22).
 - The developer will take reasonable steps necessary for the preservation of existing trees and tree lines wherever possible in coordination with city staff.
 - No clearing or grading will be permitted until approval of the preliminary plat to ensure compliance with these provisions.

The motion was seconded by Councilwoman Smith.

The issue was then discussed at great length, with the City Manager, the City Attorney, and Messrs. John Chilton and Brian Mills, representing Centennial Village Development, LLC, responding to the Council's questions and comments.

The following citizens presented statements in opposition to the approval of the revised preliminary master plan for this PUD, as submitted by Centennial Village Development, LLC, and indicated general support for the amendment proposed by Councilman Hensley.

Ms. Janice Belbeck, 135 Rockbridge Greens Boulevard
Mr. Paul Hebert, 118 Center Park Lane, President of the Park Meade Homeowners Association
Mr. Keith Lay, 109 Rockbridge Greens Boulevard, President of the Rockbridge Greens Homeowners Association
Ms. Beth Palmer, 23 Rockingham Lane
Mr. Robert Olson, 106 Center Park Lane
Mr. Jay Baudwin, 109 Center Park Lane
Mr. Stephen Gordon, 110 Center Park Lane
Mr. Austin Lance, 138 Center Park Lane
Mr. Mike McGill, 135 Center Park Lane
Mr. Richard Abraham, 125 Center Park Lane

Several of the speakers also expressed an interest in continuing opportunities for neighborhood input into this development process.

Mr. Douglas Janney of 118 Everest Circle, Chairman of the City's Industrial Development Board, offered comments in apparent support of the revised preliminary master plan as submitted by Centennial Village Development, LLC, mentioning particularly Mr. Chilton's proposal to proceed with a "phased" development process and making the point that the subject area is surrounded by natural vegetation.

Mr. A. J. Kuhaida, Jr., 107 Pembroke Road, discouraged unnecessary delay and emphasized the need for new development in Oak Ridge.

Mr. John Chilton, Chief Manager for Centennial Village Development, LLC, indicated that he likely could not proceed with this development under the terms of the amendment proposed by Councilman Hensley. He requested that the vote on this ordinance be deferred to allow time for additional review of the matter.

Councilman Hensley moved that further consideration of this ordinance be postponed until the developer is prepared to present the revised Centennial Village PUD Plan that contains the conditions approved by City Council on first reading of this ordinance. The motion died for lack of a second.

Councilwoman Smith moved that further consideration of this ordinance be postponed until such time as the developer can provide an alternative plan addressing the concerns expressed by City Council. The motion was seconded by Councilman Hensley.

At the request of the City Manager, the Council agreed by general consent that said "alternative plan" must be submitted in a timely manner; i.e., it should be submitted in time for review by the professional staff and distribution with the agenda packet for the meeting at which this ordinance is scheduled again for second reading.

The postponing motion was adopted by unanimous voice vote with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

RESOLUTIONS

General Resolutions

Resolution No. 12-108-08

A resolution approving Centennial Village Apartments, LLC, or its designee, for a fifty percent (50%) tax abatement over a term of ten (10) years for the proposed apartment complex on Edgemoor Road, conditioned upon the execution of a development agreement between the Oak Ridge Industrial Development Board and Centennial Village Apartments, LLC, or its designee, setting forth timeframes for completion and providing for the City and Anderson County to recover on a prorated basis the taxes abated should the development not proceed in accordance with said agreement.

The City Manager reviewed briefly the events associated with this issue, which are as follows:

Centennial Village Apartments, LLC, through its chief manager, John Chilton, requested a 55% tax abatement over a term of 20 years for this project, which request is outside the tax abatement guideline approved by City Council for use by the Oak Ridge Industrial Development Board (IDB). City staff reviewed the request and recommended to the IDB a 50% tax abatement over a term of 10 years. The IDB rejected City Staff's recommendation and voted six-to-three to recommend City Council approval of a 50% tax abatement over a term of 20 years.

The City Manager pointed out that the resolution is presented with the recommendation of the City staff and was presented as such at the November 17, 2008 Council meeting, at which time its consideration was postponed to this meeting.

Councilwoman Miller moved that the resolution be adopted, seconded by Councilman Hensley.

Councilwoman Miller moved that the resolution be amended to provide for a 50% tax abatement over a term of 20 years. The motion was seconded by Councilman Golden but failed to carry by roll call vote with Council members Hayes, Hensley, Smith, and Mayor Beehan voting "Nay," and Council members Golden, Miller, and Mosby voting "Aye."

Mr. Douglas Janney, Chairman of the City's Industrial Development Board (IDB), made a Powerpoint presentation in support of the IDB's recommendation for approval of a 50% abatement over a term of 20 years.

Councilman Hensley moved to reconsider the vote on the amendment proposed by Councilwoman Miller. The motion was seconded by Councilwoman Miller and the issue was discussed at some length, with the City Manager, Mr. Douglas Janney, and Messrs. John Chilton and Senton White, representing Centennial Village Apartments, LLC, responding to the Council's questions and comments.

The motion to reconsider was adopted by roll call vote with Council members Golden, Hensley, Miller, and Mosby voting "Aye" and Council members Hayes, Smith, and Mayor Beehan voting "Nay."

The amendment to provide for a 50% tax abatement over a term of 20 years was adopted by roll call vote with Council members Golden, Hensley, Miller, and Mosby voting "Aye" and Council members Hayes, Smith, and Mayor Beehan voting "Nay."

The resolution was adopted, as amended, by roll call vote with Council members Golden, Hensley, Miller, and Mosby voting "Aye" and Council members Hayes, Smith, and Mayor Beehan voting "Nay."

Resolution No. 12-109-08

A resolution endorsing the development of a Comprehensive Waterfront Plan for the area inclusive of the Oak Ridge Marina, with such Plan to be developed by the Oak Ridge Municipal Planning Commission on a schedule to be established by the Commission and with the scope of the planning area to be determined by the Commission, and providing that upon completion of the Comprehensive Waterfront Plan, it shall be submitted to City Council for approval and adoption.

Councilman Hensley moved that the resolution be adopted. The motion was seconded by Councilwoman Smith and carried by unanimous voice vote with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

Resolution No. 12-110-08

A resolution approving the FY 2010 Community Development Block Grant (CDBG) Program Model and providing that a portion of the City's FY 2010 CDBG entitlement funds are obligated as follows: \$95,000 for the expansion of the Scarboro Community Center; \$63,000.00 for Code Enforcement services; \$18,000.00 for grant administration; and \$2,000.00 for Neighborhood Watch Activities in the CDBG target areas.

Councilman Golden moved that the resolution be adopted. The motion was seconded by Councilman Hensley and after brief deliberation, it carried by unanimous voice vote with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

Resolution No. 12-111-08

A resolution authorizing the submission of an application to the U.S. Department of Energy for a five-year grant in the amount of approximately \$916,000 to support the Center for Oak Ridge Oral History, located at the Oak Ridge Public Library.

Councilman Golden moved that the resolution be adopted. The motion was seconded by Councilwoman Smith and after brief deliberation, it carried by unanimous voice vote with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

Bids and Contracts

See Recognition of Visitors.

ELECTIONS

Beer Permit Board

Councilwoman Miller moved that Carol P. Heck, Charles J. Hope, Jr., and William R. Tedford be elected by acclamation to serve on the Oak Ridge Beer Permit Board for three-year terms of office commencing on January 5, 2009. The motion was seconded by Councilman Hensley but failed to carry with Mayor Beehan casting a dissenting vote. Ballots were then cast and Ms. Heck, Mr. Hope, and Mr. Tedford were elected as follows:

<u>Candidate</u>	<u>Vote by Council Member</u>	<u>Total</u>
Carol P. Heck	Golden/Hayes/Hensley/Miller/Mosby/Smith	6
Charles J. Hope, Jr.	Beehan/Golden/Hayes/Hensley/Miller/Mosby/Smith	7
William R. Tedford	Beehan/Golden/Hayes/Hensley/Miller/Mosby/Smith	7

There were no other candidates.

Elder Citizens Advisory Board

Councilman Hensley moved that Dr. James T. Gillespie, Sr. be elected by acclamation to serve on the Elder Citizens Advisory Board as the representative of the '43 Club for the balance of an unexpired term of office ending on June 30, 2011. The motion was seconded by Councilman Hayes and carried by unanimous voice vote with Council members Golden, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye." There were no other candidates.

Notice of Elections

Mayor Beehan announced that three (3) elections are scheduled for the January 12, 2009 City Council meeting to appoint:

- One (1) member to the Anderson County Board of Equalization
- One (1) member to the Environmental Quality Advisory Board
- Three (3) members to the Health and Educational Facilities Board

The deadline for filing is 5:00 p.m. on Tuesday, December 30, 2008.

COMMUNICATIONS - None

CITY MANAGER'S REPORT

I. Grant to Promote the Oak Ridge Farmers Market

The City Manager reported that the East Tennessee Farmers Association for Retail Marketing (East Tennessee FARM) recently received notification that its grant application to the Tennessee Department of Agriculture was approved in the amount of \$10,000.00 to promote the Oak Ridge Farmers Market. He explained that a requirement of the program is that the local government in the jurisdiction of the farmers market serve as the official Grantee. He advised that City staff worked with the East Tennessee FARM last year to secure a grant and is pleased to work with the organization again this year to increase the public's awareness of the Oak Ridge Farmers Market.

II. Work Session on Ethics

The City Manager reported that he and the City Attorney thought it would be worthwhile to invite a representative of the State's new Ethics Commission to come to Oak Ridge and make a presentation to both the Council and the staff as a measure to update and inform about ethics in today's changing environment. He suggested a target date of January 19, 2009 but later changed the date to January 26th, that being the date reserved by City Council for a possible work session. He indicated that he would apprise the Council as plans for the work session are finalized.

CITY ATTORNEY'S REPORT

Attorney General's Opinion Regarding Red Light Cameras

The City Attorney reported that on November 26, 2008, the State of Tennessee Attorney General's Office issued Opinion No. 08-179 upholding the legality of Red Light Surveillance Cameras. He advised that these cameras are permitted to be used in traffic enforcement under T.C.A. § 55-8-198.

ADJOURNMENT

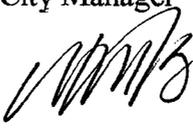
The meeting adjourned at 11:15 p.m.



City Clerk

FIRE DEPARTMENT MEMORANDUM

08-20

DATE: December 15, 2008
TO: Mr. James R. O'Connor, City Manager
FROM: Mack Bailey, Fire Chief 
SUBJECT: **TEMA EMERGENCY MANAGEMENT GRANT**

An item for the January 12, 2008 City Council meeting is a resolution accepting a \$15,000 grant from the Department of Energy through the Tennessee Emergency Management Agency (RFS# 341.04-090-09).

TEMA/DOE grants are routinely awarded to cities and counties with emergency management responsibility resulting from activities at Department of Energy sites. A \$70,000 grant was awarded several years ago for the remodeling of the former Health Department space in the Municipal Building into Fire Department Headquarters and Emergency Operations Center. Last year's grant was used to purchase equipment used for hazardous materials responses, and for response to DOE facilities.

This year's grant use has not been determined, but will be used to either further the emergency management efforts of the City or to enhance the hazmat response program.

No matching funds are required with this grant.

Staff recommends acceptance of this grant.

CITY MANAGER'S COMMENTS:

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


James R. O'Connor, City Manager

12/30/08
Date

RESOLUTION

WHEREAS, the City of Oak Ridge has determined that emergency management planning and response is in the best interest of its citizens; and

WHEREAS, the U.S. Department of Energy makes grant funds available to local jurisdictions through the Tennessee Emergency Management Agency; and

WHEREAS, the City is eligible to receive a portion of these funds; and

WHEREAS, said grant requires no local matching funds; and

WHEREAS, the City Manager recommends acceptance of said 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 a grant from the State of Tennessee Emergency Management Agency for U.S. Department of Energy pass-through funding in the amount of \$15,000 is hereby accepted for use by the Fire Department for emergency management and/or hazmat response purposes.

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

This is the 12th day of January 2009.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk

ELECTRIC DEPARTMENT MEMORANDUM
08-17

DATE: December 24, 2008

To: James O'Conner, City Manager

From: Jack L. Suggs, Electrical Director

SUBJECT: EXTENSION OF TVA GENERATION PARTNERS PROGRAMS

Attached is a resolution approving modifications of two TVA pilot programs, known as the Generation Partners pilot and the Demand Generation Partners pilot (Contract Numbers 00067538 and 00067539). The modifications extend the existing programs for six months and change the termination period from ninety days to thirty days.

Earlier this year, the City entered into agreements that provide a mechanism through which our customers can produce electric power from renewable resources – wind and photovoltaic - and sell back that power to TVA. One of the pilots was aimed at residential customers while the other targeted small commercial installations. The agreements both expire on December 31, 2008.

TVA intends to create permanent programs to take the place of these pilot programs, but is not yet ready to do so. For that reason, they have agreed to extend the existing pilot programs by six months, believing the permanent programs will be completed at that time. TVA also wishes to shorten the termination notice period from ninety days to thirty days, thus enabling them to move quickly to the new program.

There are currently no participants in the programs in Oak Ridge, but some customers have expressed interest. Staff believes that TVA is committed to creating a permanent generation program and recommends approval of the attached resolution.



Jack L. Suggs
Attachment

City Manager's Comments:

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



James R. O'Connor

12/30/08
Date



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1401

December 17, 2008

Mr. Jack L. Suggs, Electrical Director
Oak Ridge Electric Department
Post Office Box 1
Oak Ridge, Tennessee 37831-0001

Dear Jack:

PROPOSED AGREEMENTS COVERING REVISED ARRANGEMENTS FOR OAK RIDGE ELECTRIC DEPARTMENT PARTICIPATING IN THE GENERATION PARTNERS PILOT PROGRAM

The Generation Partners pilot program is scheduled to terminate December 31, 2008. TVA is continuing to develop an extended pilot that will replace the current pilot. Therefore, TVA is proposing to extend the current pilot by six months to June 30, 2009, subject to an earlier termination that would be implemented if replacement pilot arrangements are offered before that date.

Enclosed is an amendment for your signature to indicate your acceptance of the extension to allow new participants to continue to enroll in the Residential/Small Commercial as well as the Demand Generation Partners Pilot Programs for six months. Please note that in an effort to shorten contract turnaround times, TVA has tentatively executed the enclosed agreement(s), which would go into effect on January 1, 2009. **Please return one fully executed copy of each of the two pilots to me by January 31, 2009 and keep one original of each of the two pilots for your files.** If this is not possible, please let me know as soon as you can so that we can work together on other arrangements.

Sincerely,

A handwritten signature in cursive script that reads "Robbie Ansary".

Robbie Ansary
Customer Service Engineer
Knoxville Customer Service Center

Enclosures

**Green Power Switch Generation Partners
Transition Fact Sheet
12/16/08**

- The Generation Partners team is working on the development of a pilot expansion.
- Current Green Power Switch Generation Partners and Demand Generation Partners agreements between participating distributors and TVA will expire on December 31, 2008. This expiration will not affect the 10 year participation agreements between distributors and participants.
- TVA will be extending the existing agreements for up to 6 months while we finish the development of the pilot expansion. The termination notice will also be shortened from 90 days to 30 days to shorten the termination notice when we issue agreements for the new expanded pilot.
- The extension will allow distributors to continue signing up consumers during the transition period. All consumers participating in the existing program will have a window of opportunity to transition to the new agreement.
- During the transition, demand metered projects over 50 kW may still be considered by distributors and TVA on a case by case basis.
- Benefits of the new expanded pilot:
 - Helps distributors meet increasing consumer demands for renewable and clean energy generation options
 - Expands eligible projects to include additional generation resources and maximum capacity
 - Reimburses distributors for actual costs of generation meters up to \$1,000 per project (currently reimbursed \$40 per project)
 - Provides example interconnection guidelines for systems up to 2 MW
 - Increases inspection fee reimbursement from up to \$100 to \$250 per project
 - Provides consumers a credit of up to \$1000 (currently \$500) which can be applied to system monitoring equipment and services
 - Increases staff resources to educate and support distributors in pilot expansion
 - Leverages other EEDR products such as energy evaluations to meet residential, commercial, and industrial consumer needs
- In addition to expanding the Generation Partners pilot, TVA Power Supply and Fuels has issued an RFP for renewable, clean energy supply. TVA is requesting proposals to supply up to 2,000 MW of power generation from renewable and clean energy sources to TVA by June 1, 2011. Proposals from the RFP are expected to be primarily from energy companies and must be a minimum of 1 MW projects. Projects in Generation Partners expanded pilot are expected to be smaller customer owned generation (primarily solar). Information on the RFP is on www.tva.com.
- Contact your Customer Service Manager if you have questions.



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1401

December 16, 2008

Contract No. 00067538, Supp. No. 1

Mr. Jack L. Suggs, Electrical Director
Oak Ridge Electric Department
100 Woodbury Lane
Oak Ridge, Tennessee 37830

GENERATION PARTNERS PILOT

As you know, the Generation Partners pilot, as it concerns signing up Oak Ridge Electric Department customers as new participants, is scheduled to terminate December 31, 2008, and TVA is continuing to develop an expanded pilot that would replace the current pilot. Therefore, TVA is proposing to extend the period for signing up Oak Ridge Electric Department customers as new participants under the current pilot by six months to June 30, 2009, subject to an earlier termination that would be implemented if replacement pilot arrangements are offered before that date.

Specifically, TVA offers to extend Contract No. 00067538, dated March 14, 2008, (Pilot Agreement), by changing the termination date of December 31, 2008, in subsection 8(a), to June 30, 2009, and reducing the termination period from ninety (90) days to thirty (30) days in subsection 8(b). Please indicate Oak Ridge Electric Department's agreement to this amendment to our Pilot Agreement by signing below and returning one copy of this letter by January 31, 2009. Please call Robbie Ansary if you have any questions about this letter agreement or the Generation Partners pilot.

Sincerely,

Joe Hoagland
Vice President
Energy Efficiency and Demand Response

Accepted and agreed to as of
the ____ day of _____, 200__.

OAK RIDGE, TENNESSEE

By _____
Title:



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1401

December 16, 2008

Contract No. 00067539, Supp. No. 1

Mr. Jack L. Suggs, Electrical Director
Oak Ridge Electric Department
100 Woodbury Lane
Oak Ridge, Tennessee 37830

GENERATION PARTNERS PILOT

As you know, the Demand Generation Partners pilot, as it concerns signing up Oak Ridge Electric Department customers as new participants, is scheduled to terminate December 31, 2008, and TVA is continuing to develop an expanded pilot that would replace the current pilot. Therefore, TVA is proposing to extend the period for signing up Oak Ridge Electric Department customers as new participants under the current pilot by six months to June 30, 2009, subject to an earlier termination that would be implemented if replacement pilot arrangements are offered before that date.

Specifically, TVA offers to extend Contract No. 00067539, dated March 14, 2008, (Pilot Agreement), by changing the termination date of December 31, 2008, in subsection 8(a), to June 30, 2009, and reducing the termination period from ninety (90) days to thirty (30) days in subsection 8(b). Please indicate Oak Ridge Electric Department's agreement to this amendment to our Pilot Agreement by signing below and returning one copy of this letter by January 31, 2009. Please call Robbie Ansary if you have any questions about this letter agreement or the Generation Partners pilot.

Sincerely,

Joe Hoagland
Vice President
Energy Efficiency and Demand Response

Accepted and agreed to as of
the ____ day of _____, 200__.

OAK RIDGE, TENNESSEE

By _____
Title:

RESOLUTION

WHEREAS, the City of Oak Ridge is a distributor of electric power purchased from the Tennessee Valley Authority (TVA), which organization from time to time offers special programs and incentives to electric customers made available through its distributors; and

WHEREAS, by Resolution 2-19-08, City Council approved two agreements (Contract Numbers 00067538 and 00067539) with TVA for pilot programs, known as the Generation Partners pilot and the Demand Generation Partners pilot, designed to evaluate the financial and operational feasibility of customer owned renewable power generation, including photovoltaic and wind turbine sources; and

WHEREAS, TVA and the City desire to extend the two pilot program agreements for an additional six months and make other changes to the agreements designed to allow TVA time to finalize their plans for implementing permanent programs; and

WHEREAS, the City Manager recommends approval of the changes to both agreements.

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 modify the "Generation Partners Agreement Between Oak Ridge, Tennessee and Tennessee Valley Authority" (Contract Number 00067538) and the "Demand Generation Partners Agreement Between Oak Ridge, Tennessee and Tennessee Valley Authority" (Contract Number 00067539), by extending the agreements for an additional six months and changing the termination periods as outlined in the attached letters from TVA, dated December 16, 2008, thus maintaining the framework for the City to offer two pilot programs to its citizens designed to evaluate the financial and operational feasibility of customer owned renewable power generation, including photovoltaic and wind turbine sources.

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

This the 12th day of January 2009.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk

MAYOR'S MEMORANDUM
08-09

DATE: December 29, 2008

TO: Fellow Members of City Council

FROM: Intergovernmental Relations Special Committee
Mayor Tom Beehan, Chair
Mayor Pro Tem Jane Miller
Councilman David Mosby

SUBJECT: COMMITTEE REPORT AND RECOMMENDATION

The City Council's Intergovernmental Relations Special Committee (the Committee) met on December 17th, 2008 to discuss pending legislative issues and the renewal of Professional Service Agreements (PSAs) with The Ferguson Group and Bill Nolan and Associates. All Committee members were present; City staff, Bill Nolan, and a representative of the local news media were also in attendance.

Staff recommended that in light of the current presidential transition and economic situation, the City focus on pending legislative requests in lieu of adopting a new legislative agenda for 2009. In support of this recommendation, staff and Committee members discussed four projects that would be suitable for funding pursuant to proposed congressional economic stimulus legislation. Current information suggests that a bill will be introduced shortly after the 111th Congress is sworn in on January 6th, and a final package approved by both chambers when the President-elect is sworn in on January 20th. An economic stimulus package of approximately \$700 billion is expected to focus on infrastructure projects that are "shovel ready."

After lengthy discussion, the Committee voted 3-0 to send a letter before January 6th to the City's federal and state delegation, urging consideration of the following projects for funding in the proposed economic stimulus legislation. These are projects that City Council has already adopted in its legislative agenda:

- Completion of SR 95/58
- Improvements to Edgemoor Road
- Completion of Melton Lake Greenway Phase IV
- Improvements to Municipal Building Infrastructure

Staff then provided an update on two issues at the request of Councilman Mosby: the Fair and Accurate Credit Transactions Act (FACTA) and the Global Nuclear Energy Partnership. Implementation of FACTA has been delayed until May 1, 2009, although staff has been working on compliance procedures for several months. With regard to GNEP, the Department of Energy has extended the deadline for comments on its Programmatic Environmental Impact Statement. The Committee voted 3-0 to recommend that Council reaffirm its support for the GNEP concept. Staff will prepare a resolution for Council's consideration prior to the DOE's March 2009 deadline for comments.

After lengthy discussion and recommendation of staff, the Committee voted 3-0 to recommend to City Council the extension of the current PSAs with The Ferguson Group and Bill Nolan and Associates for a period of six months. Resolutions to accomplish these extensions appear under Bids and Contracts. The Committee agreed to meet on a regular basis to monitor these and other intergovernmental issues.



Thomas L. Beehan

COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM
08- 81

DATE: November 24, 2008

TO: James O'Connor, City Manager

THROUGH: Kathryn Baldwin, Community Development Director 

FROM: Kahla Gentry, Senior Planner

SUBJECT: **Request to Rezone Parcel 9.00, Map 106G, Group B from IND-2 to UB-2 and Amend Land Use Plan from Industrial to General Business.**

An item for the City Council agenda is a request to rezone Parcel 9.00, Anderson County Tax Map 106G, Group B, from IND-2, Industrial to UB-2, Unified General Business. The property is located on the southwest corner of Union Valley Road and South Illinois Avenue. The applicant has stated that the rezoning is requested in order to "get the best possible use out of the property based on visibility and access in and out of Oak Ridge as well as maximize tax revenues for the City." If the rezoning is approved, a minor amendment of the Land Use Plan map is necessary changing the designation from I, Industrial to B, General Business. At their regular meeting on November 20, 2008, the Oak Ridge Municipal Planning Commission recommended approval of the rezoning and Land Use Plan amendment by a vote of 8-0.

The property is located at the edge of Valley Industrial Park. The surrounding zoning on three sides is IND-2. The parcels north and west of the subject property have light industrial uses. The adjoining property on the south is in Commerce Park and is undeveloped. East, across S. Illinois Avenue, is an undeveloped former landfill site owned by the City of Oak Ridge. A TVA electric line easement runs across the City property in the area adjoining S. Illinois Avenue. The property on the east side of S. Illinois Avenue and north of Union Valley Road is undeveloped and part of the University of Tennessee Forestry Station. The area on the east side of S. Illinois Avenue is zoned RG-1, Residential Open Space and Reserved.

Comment has been received from one property owner in the vicinity. Mr. Lynn Reedy, representing Canberra Industries located at 107 Union Valley Road, spoke against the rezoning stating that the rezoning lessens the protection that industries have within the industrial park from conflicting uses. Mr. Reedy felt that allowing one rezoning may lead to other properties being rezoned and that allowing non-industrial uses may result in pressure upon industries to adjust their operations in order to alleviate perceived nuisances.

Staff recommends approval of rezoning Parcel 106G B 9.00 in Valley Industrial Park from IND-2 to B-2 and approval of the associated Land Use Plan amendment from I, Industrial to B, General Business. The proposed rezoning is in conformance with the economic development purposes of Valley Industrial Park. Staff does not perceive a conflict with the proposed commercial zoning

and the surrounding uses and zoning in the area. Property owners within the industrial park have approved an amendment to the covenants and restrictions to allow a commercial use. The location on the edge of the park minimizes proximity to industrial users. Being located at the entryway of the industrial park, fronting upon a state highway at a signalized intersection, the site provides an excellent location for a business serving local commuters working within the industrial park as well as other areas of Oak Ridge.

Kahla Gentry

City Manager's Comments:

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

James O'Connor

12/4/08
Date

Staff Review of Rezoning Request

Location & Approximate Area: from IND-2, Industrial to UB-2, Unified General Business identified as Anderson County Tax Map 106G, Group B, Parcel 9.00 (approx. 3.69 acres), at the corner of Union Valley Road and South Illinois Avenue.

Owner: Samuel J. Furrow
P.O. Box 32676
Knoxville, TN 37930-2676

Date: March 13, 2008
November 12, 2008

Request Rezoning:

From: IND-2, Industrial
To: UB-2, Unified General Business

Site Characteristics:

- a. Topography: relatively level
- b. Drainage: Well-drained
- c. Landscaping: cleared area

Existing Land Use: The site is undeveloped.

Adjacent Land Uses & Zoning:

North: IND-2, Industrial, industrial use
West: IND-2, Industrial, industrial use
South: IND-2, Industrial, undeveloped
East: RG-1, Residential, Open Space and Reserved, property owned by City of Oak Ridge, former landfill area.

Previous Rezoning Requests: March 1977 rezoned from F.A.I.R., Forestry, Agriculture, Industry and Research to IND-2, Industrial as part of Valley Industrial Park zoning. In May 2008 City Council denied approval of the requested rezoning from IND-2 to UB-2.

Analysis:

1. Purpose: The applicant has stated that the request for rezoning is made in order to "get the best possible use out of the property based on visibility and access in and out of Oak Ridge as well as maximize tax revenues for the City."
2. Conformity with 1988 Comprehensive Plan:
 - a. Land Use Plan: The Land Use Plan designates this area as I, Industrial. The requested zoning to UB-2, Unified General Business will require a minor change to the Land Use Plan from I, Industrial to B, General Business.
 - b. Applicable Policies:

POLICY L-7: To the extent possible, commercial development which is located along Oak Ridge's Arterial Streets will be in unified centers with shared access to those roadways.

POLICY Q-4: The City will attempt to improve employment opportunities, security, and diversity by promoting the development of new businesses and industry in Oak Ridge and by promoting the community as a desirable place to live and work.

POLICY E-5: The City will promote the use of contemporary architectural design, site planning, access control, sign standards, and landscaping techniques for new and redeveloped commercial and industrial properties so as to protect and improve the aesthetic and natural environment of the City.

POLICY E-6: The City will support the growth and diversification of retail and service establishments to better serve resident consumers and broaden the city's regional shopping center function.

POLICY L-9: The City will also allow community-scale retail development on appropriately-zoned sites having good traffic access and proper buffering from residential areas.

3. Impacts of Rezoning:

- a. Environmental Impact: Rezoning from IND-2 to UB-2 does not change the general impacts that occur as part of development: decreasing natural habitat and increasing storm water run-off. Rezoning to UB-2, Unified General Business removes the potential to have hazardous materials associated with an industrial use at this location.
- b. Economic Impact: Although the property is located within an industrial park and has been zoned IND-2 since 1977, it has remained undeveloped. The location and characteristics of the parcel may be more suitable for uses permitted within the UB-2, General Business district and rezoning may spur development that would have a positive economic impact by generating tax revenues and employment.
- c. Traffic Impact: It is expected that rezoning the property to UB-2 would allow uses that could potentially generate more traffic volume than the present IND-2 zone. The lot lies at the corner of a major signalized intersection (Union Valley Road/South Illinois Avenue). Access is recommended from Union Valley Road directly across from the property access to the north. Any access to S. Illinois Avenue would require City Council approval.
- d. Impact on Neighboring Properties: Rezoning from IND-2, Industrial to UB-2, General Business is not expected to have a significant impact on surrounding properties. Staff does not see a conflict between uses allowed in the IND-2 district and the UB-2 district.

4. Neighborhood Position: Property owners within 200 feet have been notified of the rezoning. Property owners within Valley Industrial Park and the City have approved an amendment to the Declaration of Restrictions for Valley Industrial Park to exempt the

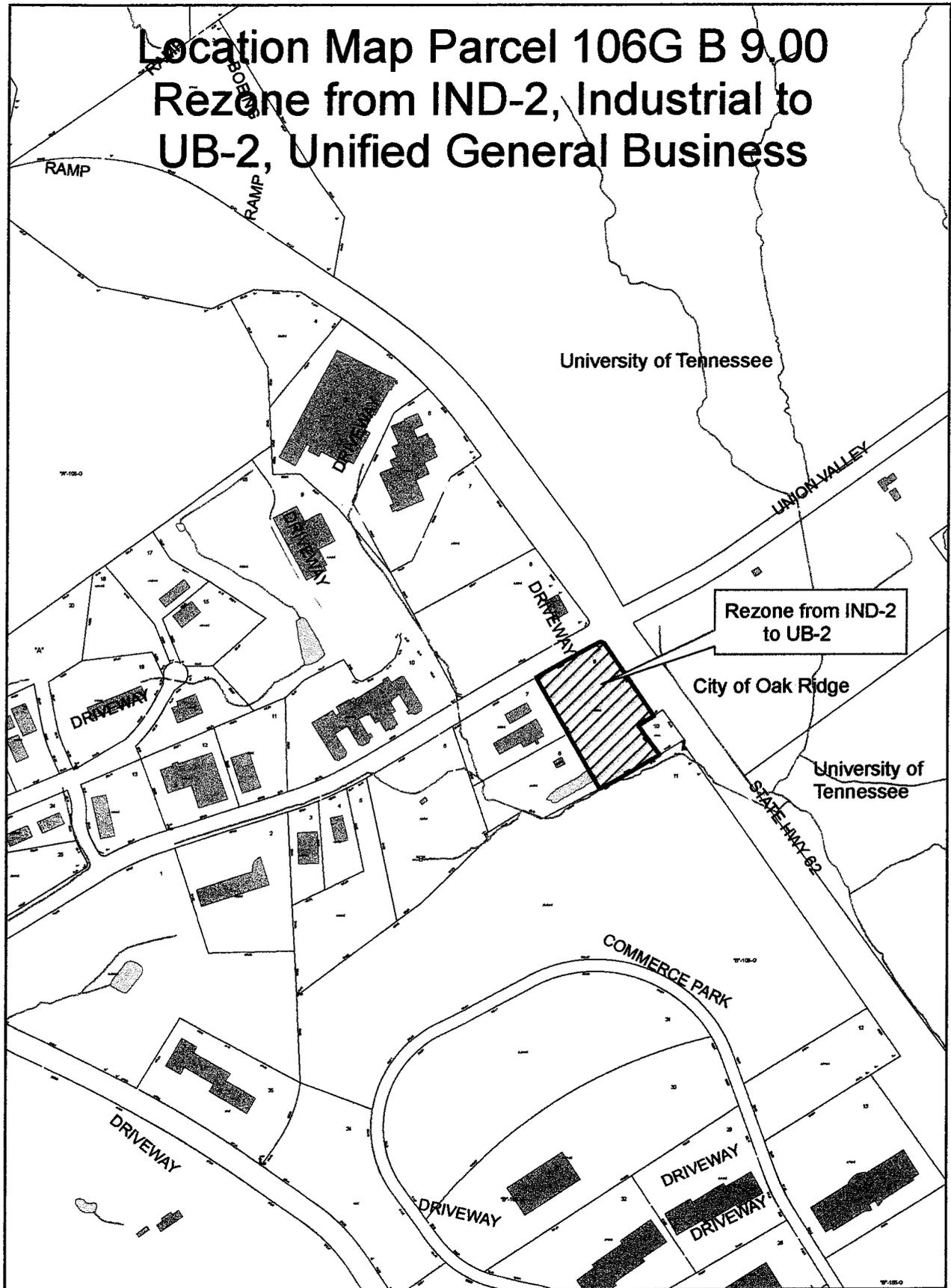
subject property from the restriction limiting said lot to use for "industrial" purposes only. The amendment was recorded at the Anderson County Register of Deeds office on August 23, 2007.

Canberra Industries, 107 Union Valley Road, was in opposition to the rezoning when it went before City Council in April 2008 during the public hearing. Mr. Lynn Reedy with Canberra Industries also appeared before the Planning Commission at their meeting on November 20, 2008. In speaking for Canberra, Mr. Reedy said he was opposed to the rezoning because of the potential for restrictions being placed upon the industries within the industrial park in response to retail businesses nuisance complaints.

5. **Public Services/Utilities:** The property can be served with public utilities.
6. **Landscaping/Buffering requirements:** A type "C" landscaped buffer is required between UB-2 and IND-2 uses. Landscaping will be approved as part of the site plan approval.
7. **Conclusion and Planning Staff Recommendation:** Staff recommends approval of the rezoning. As a commercial zoning district, staff does not perceive a conflict with the uses and zoning in the area consisting of industrial and office. The subject property has a high amount of commuter traffic driving by which could be served by uses allowed in the UB-2 district. Appropriate access must be approved as part of the site plan approval process.

Planning Commission Action: March 27, 2008 – Recommended approval of rezoning and Land Use Plan amendment by a vote of 10-0. November 20, 2008 – Recommended rezoning and Land Use Plan amendment by a vote of 8-0.

Location Map Parcel 106G B 9.00 Rezone from IND-2, Industrial to UB-2, Unified General Business



University of Tennessee

Rezone from IND-2
to UB-2

City of Oak Ridge

University of
Tennessee

COMMERCE PARK

DRIVEWAY

DRIVEWAY

DRIVEWAY

DRIVEWAY

RAMP

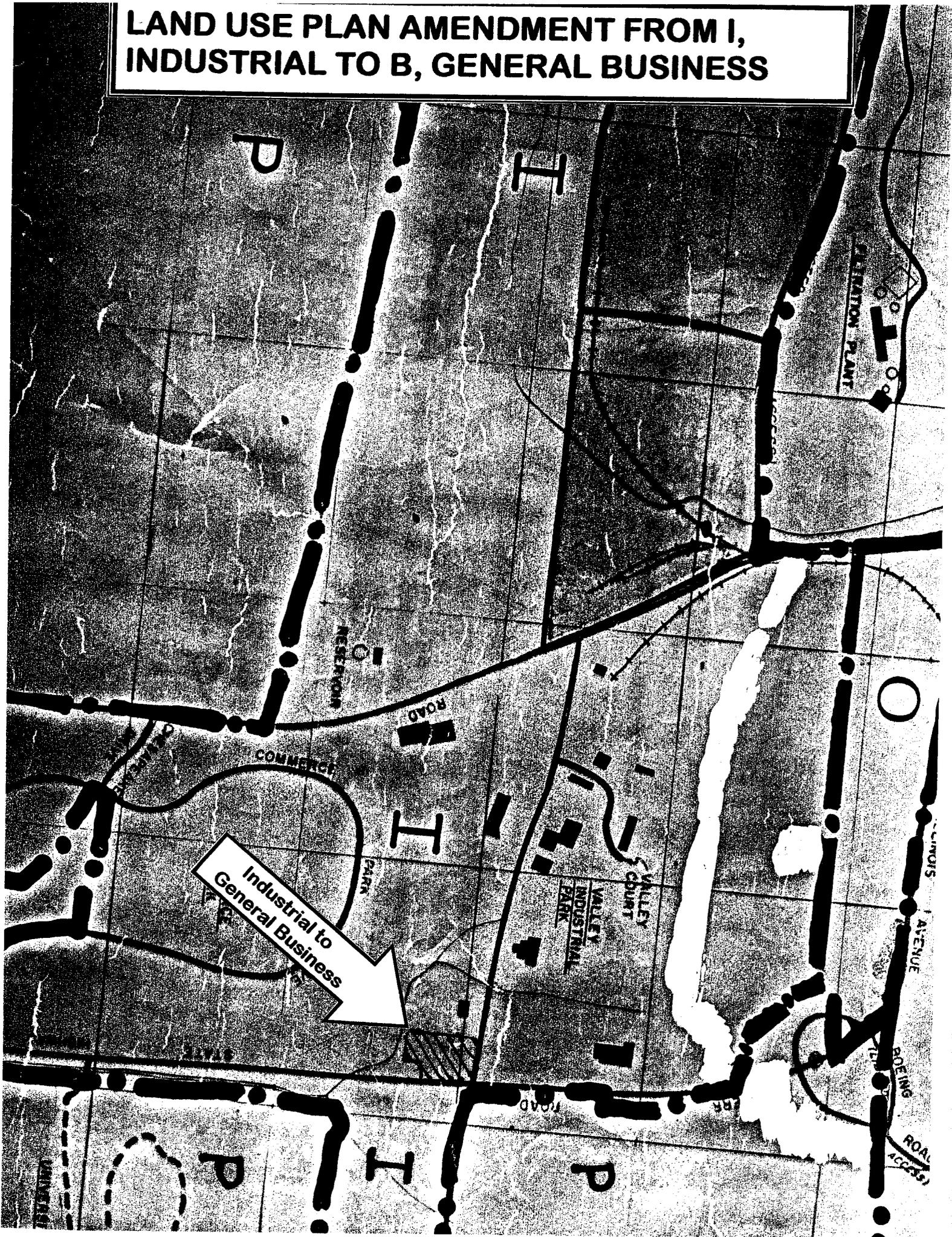
RAMP

UNION VALLEY

STATE HWY 62



LAND USE PLAN AMENDMENT FROM I, INDUSTRIAL TO B, GENERAL BUSINESS



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 009.00, MAP 106G, GROUP B, FROM IND-2, INDUSTRIAL TO UB-2, UNIFIED GENERAL BUSINESS; AND AMENDING THE COMPREHENSIVE PLAN'S LAND USE PLAN BY CHANGING THE DESIGNATION OF PARCEL 009.00, MAP 106G, GROUP B, FROM I, INDUSTRIAL TO B, GENERAL BUSINESS.

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 009.00, Map 106G, Group B (± 3.69 acres)	Corner of Union Valley Road and South Illinois Avenue	IND-2, Industrial	UB-2, Unified General Business

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. The rezoning requires a major amendment to the Comprehensive Plan's Land Use Plan, and said Plan is hereby amended by changing the designation of Parcel 009.00, Map 106G, Group B, to be changed from I, Industrial to B, General Business.

Section 4. 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:

City Attorney

Mayor

City Clerk

Public Hearing: 12/15/08
First Reading: 12/15/08
Publication Date: 12/22/08
Second Reading: _____
Publication Date: _____
Effective Date: _____

PUBLIC WORKS MEMORANDUM
08-43

DATE: December 18, 2008
TO: James R. O'Connor, City Manager
FROM: Gary M. Cinder, P.E., Director of Public Works
SUBJECT: CITY CODE AMENDMENT -- REVISIONS TO THE SEWER USE ORDINANCE ON SECOND READING

At the April 21, 2008 City Council meeting, City Council approved a new sewer use ordinance on first reading. This ordinance was necessitated by changes made by EPA to the general pretreatment regulations (40 CFR Part 403), commonly referred to as the Final Pretreatment Streamlining Rule, and by the State of Tennessee's revised Chapter 1200-4-14, Pretreatment Requirements, to reflect changes in their pretreatment program necessitated by the Streamlining Rule. These changes by both Federal and State programs have required the updating of every pretreatment program in the State, including the City's program.

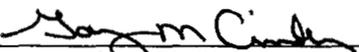
Following its approval on first reading, the City's ordinance was sent to the State of Tennessee Department of Environment and Conservation (TDEC) for comment and approval. TDEC sent comments to the City and has requested a few modifications. These modifications are shown in a bold/strikethrough format on the enclosed "List of Modifications to the Sewer Use Ordinance" for ease of comparing the changes.

Some changes requested by the State were simply grammatical. These changes will not be discussed here. However, the following are the major requested modifications by the State:

- **Definition of BOD**, Sec. 18-304(4). The State required that the federally published list of approved laboratory methods be substituted for the reference already in the ordinance citing the publication by the American Public Health Association.
- **Definition of Interference**, Sec. 18-304(22). The City was required to expand the definition of interference to include problems resulting in the collection system, as well as, the treatment plant.
- **Definition of New Source**, Sec. 18-304(30). This definition was copied from the State model ordinance; but in the process, a full line of the definition was originally omitted. It is now reinserted to produce the intended meaning.
- **Prohibited Discharges**, Sec. 18-308(2)(a). A clarification as to the kind of oils and grease, namely of animal and vegetable origin, that are prohibited is requested by the State.
- **Prohibited Discharges**, Sec. 18-308(2)(a). The State required the City to expand the characteristics of an explosive mixture to include that which has a flashpoint of 60 degrees Centigrade as determined by the closed cup method specified in 40 CFR 261.21.
- **Prohibited Discharges**, Sec. 18-308(2)(f). Blood was removed as a prohibited discharge waste because the State recommended removal or the City would have to be ready to take enforcement against the hospital, medical clinics and mortuaries.
- **Prohibited Discharges**, Sec. 18-308(2)(g). The State required that "interference", not "process upset and subsequent loss of treatment efficiency" be given as the reason for not allowing excessive discharge rates.
- **Prohibited Discharges**, Sec. 18-308(2)(p). Because of the change in Sec. 18-308(2)(a) cited above, it became necessary to add oils and grease of mineral or petroleum origins specifically.
- **Prohibited Discharges**, Sec. 18-308(2)(q). The state required that the ordinance prohibit any pollutant that might have acute harm to a worker of the POTW.

- **National Categorical Pretreatment Standards**, Sec. 18-309(1)(a). The State is requiring that a reference to the Tennessee Rule 1200 be substituted for the internal document reference.
- **Discharge Permits**, Sec. 18-310(3)(n). Though the proposed ordinance states that permits are not transferable, the State requires that the ordinance in this section require that the permit itself contains a statement of nontransferability within it. Hence the inclusion of this statement.
- **Industrial Waste Surcharge**, Sec. 18-318(1). City staff decided it would be best to introduce wording that could give the City the flexibility to impose or not impose a charge for waste discharges that have excess conventional pollutants. Discretion would be based on the cost benefit for the City, as well as, unjustifiable hardship on the industry.

Staff Comment: Staff recommends the adoption of the new sewer use ordinance following its amendment to incorporate the requested TDEC modifications. An ordinance that incorporates those modifications has been prepared and is presented for your consideration as a substitute ordinance.

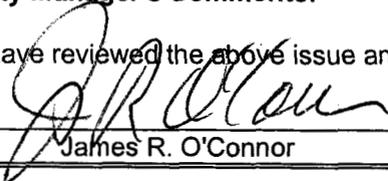


Gary M. Cinder

ks

Attachments:

- List of Modifications to the Sewer Use Ordinance
- Substitute Ordinance
- Original Ordinance as Approved on First Reading

<p>City Manager's Comments:</p> <p>I have reviewed the above issue and recommend council action as outlined in this document.</p> <p> _____ James R. O'Connor</p> <p style="text-align: right;"><u>1/8/09</u> Date</p>
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LIST OF MODIFICATIONS TO THE SEWER USE ORDINANCE

The following modifications were requested by the State of Tennessee Department of Environment and Conservation, and have been incorporated into the attached revised sewer use ordinance. Review of the ordinance also noted some typographical errors, which have been corrected on the attached revised sewer use ordinance but are not shown below because they are simply typographical corrections.

Sec. 18-304. Definitions.

- (4) "BOD" used in sewage or industrial waste shall designate its bio-chemical oxygen demand and shall mean the quantity of oxygen utilized in the bio-chemical oxidation of the organic matter of said sewage or industrial wastes under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter. It shall be determined by one of the acceptable methods described in **40 CFR Part 136** ~~the latest edition of "Standard Methods for Examination of Water and Waste Water," published by the American Public Health Association.~~
- ...
- (22) "Interference" means a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment **works or the collection system.**
- ...
- (30) "New Source" means:
- (a)(3) The production of wastewater generating processes of the building, structure, facility, or installation are substantially independent of **an existing source at the same site. In determining where these are substantially independent,** factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

Sec. 18-308. Prohibitions and Limitations on Wastewater Discharge.

- (2) Prohibitions on Wastewater Discharge
- (a) Oils and Grease: Fats, wax, grease or oils of **animal or vegetable origin in concentrations greater** ~~more~~ than one hundred (100) mg/l, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees F (0 degrees and 65 degrees C) at the point of discharge into the system.
- (b) Explosive Mixtures: Liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient to cause a fire or explosion hazard or be injurious in any other way to the POTW or to the operation of the system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (L.E.L.). **Wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.** Prohibited materials included, but are not limited to,

gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

...

- (f) **Solids or Viscous Wastes:** Solid or viscous waters which will or may cause obstruction to the flow in a sewer, or other interference with the proper operation of the POTW. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, ~~whole blood,~~ feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.
- (g) **Excessive Discharge Rate:** Wastewaters at a flow rate which is excessive relative to the capacity of the treatment works or which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewaters containing such concentrations or quantities of pollutants that their introduction into the treatment works ~~over a relatively short time period (sometimes referred to as "slug" discharges)~~ would cause a ~~treatment process upset and subsequent loss of treatment efficiency~~ **Interference.**

...

- (p) **Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or Pass Through.**
- (q) **Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.**

Sec. 18-309. Control of Prohibited Wastes.

- (1) National Categorical Pretreatment Standards.
 - (a) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with ~~subsections (d) and (e) below~~ **Tennessee Rule 1200-4-14-.06(3).**

Sec. 18-310. Wastewater Discharge Permits, Generally.

- (3) Permit Conditions.
 - (n) ~~Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants (or pollution prevention alternative) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;~~
 - (#) **A statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing permit to the new owner or operator;**

(Note: This subsection was inserted as subsection 18-310(3)(c) and the remaining subsections were subsequently renumbered.)

Sec. 18-318. Industrial Waste Surcharge.

- (1) Surcharge based upon strength of wastes.

In the event the user discharges industrial wastes to the POTW having an average Biochemical Oxygen Demand (BOD) content in excess of 300 mg/l, and/or an average Suspended Solids (SS) content in excess of 300 mg/l, and/or an average Ammonia Nitrogen content in excess of 30 mg/l, the user ~~shall~~ **may be required to** pay a surcharge based upon the excess strength of their wastes.*

* This change was made between first and second reading by the City. This was not a change requested by the State.

SUBSTITUTE ORDINANCE

ORDINANCE NO. _____

TITLE

AN ORDINANCE TO AMEND TITLE 18, TITLED "WATER AND SEWERS," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING CHAPTER 3, TITLED "SEWER USE ORDINANCE," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW CHAPTER 3, TITLED "SEWER USE ORDINANCE," TO UPDATE THE EXISTING SEWER USE PROVISIONS FOR COMPLIANCE WITH THE REQUIREMENTS SET FORTH BY THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION.

WHEREAS, the City of Oak Ridge has a need to update its Sewer Use Ordinance to comply with the requirements set forth by the State of Tennessee Department of Environment and Conservation.

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

Section 1. Title 18, titled "Water and Sewers," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting Chapter 3, titled "Sewer Use Ordinance," in its entirety and substituting therefor a new Chapter 3, titled "Sewer Use Ordinance," which new chapter shall read as follows:

Chapter 3 Sewer Use Ordinance

Sec. 18-301. Title.

This ordinance shall be known and designated as the "Sewer Use Ordinance."

Sec. 18-302. Administration.

Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to a duly authorized municipal employee.

Sec. 18-303. Abbreviations.

The following abbreviations, when used in this ordinance, shall have the meanings designated as follows:

- (1) BOD – Biochemical Oxygen Demand
- (2) BMR – Baseline Monitoring Report
- (3) CFR – *Code of Federal Regulation*
- (4) CIU – Categorical Industrial user
- (5) COD – Chemical Oxygen Demand
- (6) EPA – U.S. Environmental Protection Agency
- (7) gpd – gallons per day
- (8) IU – Industrial User

- (9) mg/l – milligrams per liter
- (10) NPDES – National Pollutant Discharge Elimination System
- (11) NSCIU – Non-significant Categorical Industrial User
- (12) POTW – Publicly Owned Treatment Works
- (13) RCRA – Resource Conservation and Recovery Act
- (14) SIU – Significant Industrial User
- (15) SNC – Significant Non-compliance
- (16) TSS – Total Suspended Solids
- (17) TTO – Total Toxic Organics
- (18) U.S.C. – United States Code

Sec. 18-304. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- (1) “Act” or “The Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977.
- (2) “The Approval Authority” means the State of Tennessee, Department of Environment and Conservation, Division of Water Pollution Control or any authorized representative.
- (3) “Authorized Representative of Industrial User” means:
 - (a) If the User is a corporation:
 - (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

- (c) If the User is a Federal, State or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (d) The individuals described in subsections (a)(1) and (a)(2) above may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- (4) "BOD" used in sewage or industrial waste shall designate its bio-chemical oxygen demand and shall mean the quantity of oxygen utilized in the bio-chemical oxidation of the organic matter of said sewage or industrial wastes under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter. It shall be determined by one of the acceptable methods described in 40 CFR Part 136.
 - (5) "Building Sewer" means a sewer conveying wastewater from the premises of a User to the POTW (see (39)). A building sewer ends at the tap on the City main sewer transition main.
 - (6) "Categorical Industrial User" means any discharger subject to Categorical Pretreatment standards under 40 CFR Chapter I, Subchapter N (see (10)).
 - (7) "Categorical Pretreatment Standard or Categorical Standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
 - (8) "City" means the City of Oak Ridge acting as a municipal corporation under the laws of the State of Tennessee or the City Council of Oak Ridge, acting through the City Manager.
 - (9) "City Manager" means the City Manager of the City of Oak Ridge.
 - (10) "Code of Federal Regulations or CFR" means the publication of the same name by the Office of the Federal Register, National Archives and Records Administration containing a codification of the general and permanent rules published in the Federal Register by Executive department and agencies of the Federal Government. The Code of Federal Regulations is prima facie evidence of the text of the original documents. Cites to the document are as follows: XX CFR YYY where XX represents the Title and YYY representing chapter and section within that title. CFR documents are available from the Superintendent of Documents, US Government Printing Office, Washington, D.C. 20402.
 - (11) "Control Authority" means the City of Oak Ridge, Tennessee acting through the City Manager or the City Manager's authorized representative.
 - (12) "Customer" means any individual, firm, company, association, society, corporation or group who is the beneficiary of the water and sewer service or who is utilizing the water and/or sewer system of the City of Oak Ridge.
 - (13) "Daily Maximum" means the arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.
 - (14) "Daily Maximum Limit" means the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily

discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

- (15) "Garbage" means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- (16) "Grab Sample" means a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- (17) "Holding Tank Waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailer, septic tanks, and vacuum-pump tank trucks.
- (18) "Indirect Discharge" means the discharge or introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system) for treatment before direct discharge to the waters of the State of Tennessee.
- (19) "Industrial User" means a source of indirect discharge which does not constitute a "discharge of pollutants" under regulation issued pursuant to Section 402, of the Act.
- (20) "Industrial Wastewater" means the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
- (21) "Instantaneous Limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (22) "Interference" means a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.
- (23) "Local Limit" means specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).
- (24) "May" is permissive.
- (25) "Medical Waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (26) "Monthly Average" means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- (27) "Monthly Average Limit" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharged" measured during that month.
- (28) "National Pretreatment Standards" means any regulation containing pollutant discharge limits promulgated by the EPA and in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to the industrial users.

- (29) "NPDES Permit" means the National Pollutant Discharge Elimination System as defined in Section 402 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500).
- (30) "New Source" means:
- (a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - (1) The building, structure facility, or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - (3) The production of wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining where these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
 - (b) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (a)(2) or (a)(3) above but otherwise alters, replaces, or adds to existing process or production equipment.
 - (c) Construction of a New Source as defined under this section has commenced if the owner or operator has:
 - (1) Begun, or caused to begin, as part of a continuous onsite construction program
 - (a) any placement, assembly, or installation of facilities or equipment; or
 - (b) significant site preparation work including clearing, excavation, or removal of existing building, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this section.
- (31) "Noncontact Cooling Water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

- (32) "Pass Through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.
- (33) "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity, or other legal entity, or legal representative, agents or assigns. The masculine gender shall mean to include the feminine, the singular shall include the plural where indicated by the context.
- (34) "pH" means a measure of the acidity or alkalinity of a solution, expressed in standard units.
- (35) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (36) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.
- (37) "Pretreatment Requirements" means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- (38) "Pretreatment Standards" means all applicable rules and regulations contained in the Code of Federal Regulations as published in the Federal Register, under Section 307 of Public Law 92-500 and in the Tennessee Pretreatment Requirements, Chapter 1200-4-14.
- (39) "Publicly Owned Treatment Works or POTW" means a treatment works as defined by Section 212 of the Act, which is owned in this instance by the City of Oak Ridge. This definition includes any sewer that conveys wastewater to the treatment works.
- (40) "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm water as may be present.
- (41) "Shall" is mandatory.
- (42) "Significant Industrial User" means:
- (a) A Significant Industrial User means
 - (1) An Industrial User subject to categorical Pretreatment Standards; or
 - (2) An Industrial User that:
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

- (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
- (b) The City may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (1) The Industrial User, prior to City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (2) The Industrial User annually submits the certification statement required in Section 18-313(5)(b) [see Tennessee Rule 1200-4-14-.12(17)], together with any additional information necessary to support the certification statement; and
 - (3) The Industrial User never discharges any untreated concentrated wastewater.
- (c) Upon a finding that a User meeting the criteria in Subsection (a)(2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such User should not be considered a Significant Industrial User.
- (43) "Slug Load or Slug Discharge" means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 18-308 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
- (44) "Standard Methods" means the testing methods approved for use in 40 CFR 136 as appropriate.
- (45) "Storm Water" means any flow occurring during or immediately following any form of natural precipitation and resulting therefrom.
- (46) "Superintendent" means the City Manager or the City Manager's designee primarily responsible for wastewater discharges.
- (47) "Total Suspended Solids or Suspended Solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

- (48) "Toxic Pollutant" means any pollutant or combination of pollutants listed as toxic in the regulations promulgated by the Administrator or Environmental Protection Agency under the provisions of 33 USC 1317.
- (49) "User" means any person discharging wastes to the City of Oak Ridge POTW.
- (50) "Waste" means any waste, including sewage and any other waste substances, liquid, solid, or gases that are radioactive, associated with human habitation, or human or animal origin, or from any producing, manufacturing, or processing operation or whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of disposal.
- (51) "Wastewater" means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (52) "Miscellaneous Terms" means terms not otherwise defined herein shall be defined as shown in the latest edition of Standard Methods for the Examination of Water and Wastewater or other appropriate Federal or State Guidelines and Regulations.

Sec. 18-305. Use of Public Sewers Required.

- (1) Disposal of Waste.

It shall be unlawful for any person to place, deposit, or permit to be deposited on public or private property within the City of Oak Ridge any human or animal excrement or other objectionable waste in such a manner to create a public nuisance or to create a threat or danger to the public health and safety. This section shall not apply to the depositing of animal excrement by livestock or through other generally accepted agricultural activities, nor to the depositing of excrement from household pets, provided such excrement is not deposited nor allowed to accumulate to such an extent as to cause a public nuisance or otherwise to constitute a threat or danger to the public health or safety, and provided further that it shall be unlawful to place, deposit, or to permit to be deposited upon the property of another within the City of Oak Ridge human or animal excrement or other objectionable waste in any amount without the permission of the owner of such property.

- (2) Direct Discharge Prohibited.

It shall be unlawful to discharge to any natural outlet within the City of Oak Ridge, or any area under the jurisdiction of said City, any sewage or other polluted waters, except where a Federal or State discharge permit has been duly issued and is currently valid for such discharge.

- (3) New Private Disposal Systems Prohibited.

Except as hereinafter provided or as otherwise permitted by ordinance or regulation, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other private facility intended or used for the disposal of sewage.

- (4) City's Right to Require Sanitary Facilities.

The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes which abut upon a street, road, right-of-way or other public way containing a public sanitary sewer shall upon demand by the City install suitable toilet facilities therein and connect the same directly with the proper public sewer in accordance with the

provisions of this ordinance and shall cease to use any other means for the disposal of sewage, waste, wastewater, and other polluting matter, provided however the City may waive such requirement in specific cases where it has determined that public sewer service to any particular individual user(s) would be unduly difficult or expensive and that alternative measures of disposal would not be hazardous to public health.

(5) City's Right to Require Sewer Hookup.

The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes which abut upon a street, road, right-of-way or other public way containing a public sanitary sewer shall upon demand by the City connect such house, building, improvement or property with the proper public sewer in accordance with the provisions of this ordinance and shall cease to use any other means for disposal of sewage, waste, wastewater or other polluting matter, provided however the City may waive such requirements in specific cases where it has determined that public sewer service to any particular individual user(s) would be unduly difficult or expensive and that alternative measures of disposal would not be hazardous to public health.

(6) Disposal of Private Waste by Truck.

The Superintendent shall designate the locations and times where vacuum or "cess pool" trucks may be discharged, and may refuse to accept any truckload of waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto. The owner or operator of a truck shall upon request, provide manifest to the POTW that states the source of the domestic waste they wish to discharge, the volume of wastewater from each source, and whether any industrial waste is included in the wastewater.

(7) Holding Tanks.

No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the Superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constitutes and characteristic of the discharge. Such user shall pay any applicable charges or fees therefore, and shall comply with the conditions of the permit issued by the Superintendent. Provided, however, no permit shall be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into an approved facility designed to receive such waste.

Sec. 18-306. Private Sewage Disposal.

The disposal of sewage by means other than the use of the available public sanitary sewage system shall be in accordance with local, county and state law. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the available public sanitary sewer system is not available, or where such is otherwise permitted by City ordinance or regulations.

Sec. 18-307. Building Sewers and Connections.

(1) Connections of Building Sewers to POTW.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenance thereof without first obtaining a

written permit from the Control Authority. The owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Control Authority.

(2) Cost of Installation.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(3) Separate Sewers Required.

A separate and independent building sewer shall be provided for every building.

(4) Old Building Sewers.

Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by the City, to meet all requirements of this ordinance.

(5) Construction Controls for New Sewers.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the International Plumbing Code and the International Residential Code shall apply.

(6) Sewer Entrances to Private Facilities.

Whenever possible, the building sewer shall be brought to the building at an elevations below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(7) Extraneous Water Prohibited.

No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Exceptions may be made only if such connection is approved by the Superintendent for purpose of disposal of polluted surface drainage or ground water. Such connections, if approved, will require a wastewater discharge permit.

(8) Quality of Construction.

All connections to the City system shall be made gas tight and watertight. Any deviations from the prescribed procedures and materials must be approved by the Control Authority before installation.

(9) Inspection of Sewers.

The applicant for the building sewer permit shall notify the Control Authority or his representative when the building sewer is ready for inspection and connection to the

public sewer. The connection shall be made by or under the supervision of the Control Authority.

(10) Excavation Safety.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public. Property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

(11) Condition of Private Sewers.

Users shall be responsible for the integrity of building sewers on his property. If it is determined that these lines are faulty or in a bad state of repair, such that extraneous storm water can enter the POTW, the City may require the customer to repair his pipes. If the pipes are not repaired within the time period allowed by the City, service shall be terminated.

(12) Grease Traps.

All cafes, restaurants, motels, hotels, or other commercial food preparation establishments shall install a grease trap on the kitchen waste line, provided however, all existing cafes, restaurants, motels, hotels, or other commercial food preparation establishments shall be required to construct a grease trap, at the owner's expense within ninety days after notification by the City, if and when the Control Authority determines that a grease problem exists which is capable of causing damage or operational problems to structures or equipment in the City sewer system, or if such is otherwise required by City Ordinance, State or Federal law. The City shall retain the right to inspect and approve installation of the grease trap facility. The grease trap must precede the septic tank on the kitchen waste line if a septic tank is used. The grease trap must be designed in accordance with current engineering standards and shall be easily accessible for cleaning. Grease traps shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the City sewer. If the City employees are required to clean out the City sewer lines as a result of a stoppage resulting from a clogged grease trap, the property owner or operator shall be required to pay the costs of the City labor and materials required to clean out the sewer lines. The installation of grease traps shall be in accordance with Section 18-307(2) of this Ordinance.

(13) Alteration to and Obstruction to City Sewers.

No person shall obstruct entrance to or operation of the City Sanitary Sewer System. Existing manholes are to be kept uncovered and accessible at all times. In the event that construction involving the filling of an area around a manhole occurs, the owner of the property, or the person causing the construction to be accomplished shall bear all costs associated with the required adjustment of the sewer manholes. Filling or grading of a property such that storm water concentrates at a manhole will not be permitted. The City reserves the right to enter onto its easements at all times to maintain its system and to remove or cause to be removed all obstructions to said entrance, and furthermore to assess the costs of the removal of obstructions against the owner thereof.

(14) Maintenance of Building Sewers.

The owner of a building sewer is responsible for the maintenance (and replacement, if required) of the building sewer from his building to either (a) the tap on the city main sewer lines; or, (b) the point of confluence with flow from buildings owned by another owner; whichever is shorter. Should the building sewer cross a public right-of-way before entering the main line sewer, the property owner is responsible for maintenance of the

line to the main line; however, should city owned facilities, such as sidewalks, curbs, gutters, or streets be disturbed by the repair of the building sewer, the City will repair said improvements as are reasonable disturbed by the work at no cost to the owner of the property. Operations in a public right-of-way require written permission of the City and proper safety provisions including but not limited to traffic control as outlined in the Manual of Uniform Traffic Control adopted by the State of Tennessee.

Sec. 18-308. Prohibitions and Limitations on Wastewater Discharge.

- (1) Requirements of Wastewater Permits.
 - (a) No person shall discharge or cause to be discharged into the City of Oak Ridge POTW any wastewater other than domestic sewage resulting from normal human habitation including food preparation activities unless he holds a Wastewater Discharge Permit as defined in Section 18-310 of this ordinance. This section shall not apply to existing sources until they are notified of its requirement in writing.
 - (b) Persons discharging radionuclides only in addition to domestic sewage are required to obtain a Wastewater Treatment Permit unless:
 - (1) Material discharged is characterized by a half-life of less than ten days, and a lack of significant alpha activity; and,
 - (2) At no point along the collection system is activity more than double background levels at the surface with all manholes closed and the system functioning normally; and,
 - (3) No more than 500 microcuries of material are discharged per hour measured at the point of discharge into the wastewater collection system to a maximum of 3500 microcuries per day.

It is the responsibility of the discharging party to arrange for verification of these limits within five days of a written request to do so by the City.

- (c) The Control Authority may waive the requirements for a Wastewater Discharge Permit on a case-by-case basis for dischargers whose effluent does not violate the criteria for domestic sewage as established by the controlling agency and who, furthermore, are not categorical users. Notwithstanding the following, existing non-permitted dischargers or dischargers who have had the permit requirement waived may be required to obtain a discharge permit upon sixty (60) days notification by the controlling authority based on the observed character of the user's operations or his waste stream or suspected impact on the POTW or other factors which the Control Authority may define.
- (d) In order to avoid wastewater influent to the treatment plant which creates adverse effects, or interferes with any wastewater treatment or collection processes, or creates any hazard in receiving waters or results in the City being in violation of applicable effluent standards including sludge disposal standards, the Control Authority shall establish and amend wastewater effluent limits as deemed necessary. Limits for certain parameters are set as protection criteria for the POTW. Discharge limits for industrial users will be set in discharge permits as outlined in Section 18-310 of this ordinance. Such limits will be calculated based on the anticipated ability of the plant to absorb specific wastewater constituents without violation of its NPDES permit, safety of the public, and/or disruption of

plant operations including sludge disposal; not to exceed, however, federal limits where applicable.

(e) Dilution.

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Superintendent may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

(2) Prohibitions on Wastewater Discharge.

Regardless of permit status, no person shall discharge or cause to allow to be discharged into the City of Oak Ridge POTW or any connected treatment facilities any waste which contains any of the following:

- (a) Oils and Grease: Fats, wax, grease or oils of animal or vegetable origin in concentrations of greater than one hundred (100) mg/l, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees F (0 degrees and 65 degrees C) at the point of discharge into the system.
- (b) Explosive Mixtures: Liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient to cause a fire or explosion hazard or be injurious in any other way to the POTW or to the operation of the system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (L.E.L.). Wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21. Prohibited materials included, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
- (c) Noxious Materials: Noxious or malodorous solids, liquids or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for its maintenance and repair.
- (d) Improperly Shredded Garbage: Garbage that has not been ground or comminuted to such a degree that all particles are ½ inch or less in greatest dimension and will be carried freely in suspension under flow conditions normally prevailing in the public sewers.
- (e) Radioactive Wastes: Radioactive wastes or isotopes of such half-life or concentration that they are in noncompliance with regulations issued by the appropriate authority having control over their use and which will or may cause damage or hazards to the POTW or personnel operating the system.
- (f) Solids or Viscous Wastes: Solid or viscous waters which will or may cause obstruction to the flow in a sewer, or other interference with the proper operation of the POTW. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair,

hides or fleshings, entrails, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.

- (g) Excessive Discharge Rate: Wastewaters at a flow rate which is excessive relative to the capacity of the treatment works or which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewaters containing such concentrations or quantities of pollutants that their introduction into the treatment works would cause Interference.
- (h) Toxic Substances: Any toxic substances, chemical elements or compounds, phenols or other taste- or odor-producing substances, or any substances in amounts which may interfere with the biological processes or efficiency of the treatment works, or that will pass through the treatment works in concentrations which would cause the POTW to exceed its NPDES permit limits.
- (i) Unpolluted Waters: Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by the Superintendent.
- (j) Discolored Materials: Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit.
- (k) Corrosive Wastes: Any waste which will cause corrosion or deterioration of the POTW. All wastes discharged to the public sewer system must have a pH value in the range of six (6) to nine (9). Prohibited materials include, but are not limited to acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic products.
- (l) Thermal Discharge: Heat in amounts which will inhibit biological activity in or cause damage to the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment plant exceeds 40°C (104°F). Under no conditions may the temperature at the point of discharge exceed 120°F.
- (m) Human Hazard: Any wastewater which caused hazard to human life or creates a public nuisance.
- (n) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test.
- (o) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW.
- (p) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through.
- (q) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(3) Limitation on Wastewater Discharge.

No person shall discharge or convey or cause to be discharged or conveyed to the public sewer any wastewater containing pollutants of such character or quantity that will:

- (a) Not be amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (b) Constitute a hazard to human or animal life or to the stream or water course receiving the treatment plant effluent.
- (c) Exceed limits as set forth in his Wastewater Discharge Permit or violate the Federal Pretreatment Standards.
- (d) Cause the treatment plant to violate its NPDES permit, pass-through limits, or other applicable receiving water standards, or cause interference with plant operations.
- (e) Contain any water or wastes whose strength or other characteristics exceed the limits for normal wastewater which may be established by the Control Authority.

Sec. 18-309. Control of Prohibited Wastes.

(1) National Categorical Pretreatment Standards.

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471.

- (a) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with Tennessee Rule 1200-4-14-.06(3).
- (b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Superintendent may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- (c) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Superintendent shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).
- (d) The Superintendent may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Superintendent.
- (e) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 18-309 in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.
- (f) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum

Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

- (g) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Superintendent within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(2) Tennessee Pretreatment Standards.

Users must comply with Tennessee Pretreatment Standards codified at 1200-4-14.

(3) Regulatory Actions.

If wastewaters containing any substances in excess concentrations as described in Section 18-308 of this Ordinance are discharged or proposed to be discharged into the sewer system of the City of Oak Ridge or to any sewer system tributary thereto, the City shall take any action necessary to:

- (a) Prohibit the discharge of such wastewater.
- (b) Require a discharger to demonstrate that in-plant modifications will eliminate the discharge of such substances to a degree as to be acceptable to the City.
- (c) Require pretreatment, including storage facilities or flow equalization, necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations or Federal pretreatment standards and any other applicable requirements promulgated by the EPA in accordance with Section 307 of the Clean Water Act of 1977.
- (d) Require the person or discharger making, causing or allowing the discharge to pay any added cost of handling and treating excess loads imposed on the POTW. Nothing herein authorizes discharge, otherwise prohibited, upon payment of cost therefore.
- (e) Discontinue sewer service to the discharger until such time as the problem is corrected.
- (f) Take such other remedial action provided by law as may be deemed to be desirable or necessary to achieve the requirements of this Ordinance.

(4) Submission of Plans.

- (a) Where pretreatment or equalization of wastewater flows prior to discharge into any part of its POTW is required by the City of Oak Ridge; plans, specifications and other pertinent data or information relating to such pretreatment of flow-control facilities shall be submitted to the Control Authority for review and approval. Approval shall in no way exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule or regulation of any governmental unit or the City. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to, and approval of, the Control Authority.

- (b) The Superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Superintendent may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Superintendent may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
 - (1) Description of discharge practices, including nonroutine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the Superintendent of any accidental or Slug Discharge, as required by Section 18-309(6) of this ordinance; and
 - (4) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (5) Pretreatment Facilities Operations.

If pretreatment or control of waste flows is required, such facilities shall be effectively operated and maintained by the user at his or her expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances and laws.
- (6) Reporting of Accidental Discharges.
 - (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
 - (b) Within five (5) days following such discharge, the User shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
 - (c) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (6)(a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant Industrial Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

(7) Right of Entry.

Agents of the City of Oak Ridge, the Tennessee Department of Environment and Conservation (TDEC) and/or EPA upon presentation of credentials shall be permitted to enter all properties of the contributing industry for the purpose of inspection, observation, measurement, sampling, and testing.

Sec. 18-310. Wastewater Discharge Permits, Generally.

(1) Permits Required.

All persons proposing to connect to or discharge into the sanitary sewer system any material other than normal domestic waste shall be considered an Industrial User and must obtain a Wastewater Discharge Permit from the Control Authority before connecting to or discharging into the sanitary sewer. All existing industrial users connected to or discharging into the City's sanitary sewer must obtain a Wastewater Discharge Permit within sixty (60) days after notice from the City.

(2) Permit Application.

(a) All Users required to obtain an individual wastewater discharge permit must submit a permit application. The Superintendent may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

(a) The name and address of the facility, including the name of the operator and owner.

(b) Contact information, description of activities, facilities, and plant production processes on the premises.

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

(a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;

(b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(c) Number and type of employees, hours of operation, and proposed or actual hours of operation;

- (d) Type and amount of raw materials processed (average and maximum per day); and
 - (e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
 - (4) Time and duration of discharges.
 - (5) The location for monitoring all wastes covered by the permit.
 - (6) **Flow Measurement.** Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 18-309(1)(c) (Tennessee Rule 1200-4-14-.06(5)).
 - (7) **Measurement of Pollutants.**
 - (a) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process.
 - (c) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 18-313(1) of this ordinance. Where the Standard requires compliance with a pollution prevention alternative, such as the certification alternative in lieu of required monitoring for TTO, the User shall submit documentation as required by the Superintendent or the applicable Standards to determine compliance with the Standard.
 - (e) Sampling must be performed in accordance with procedures set out in Section 18-313(2) of this ordinance.
 - (8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 18-312(4)(b). [See 1200-4-14-.12(5)(b)].
 - (9) Any other information as may be deemed necessary by the Superintendent to evaluate the permit application.
- (b) **Application Signatories and Certifications**
- (1) All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative

of the User and contain the certification statement in Section 18-313(5)(a).

- (2) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Superintendent prior to or together with any reports to be signed by an Authorized Representative.
- (3) A facility determined to be a Non-Significant Categorical Industrial User by the Superintendent pursuant to 18-304(42)(b) must annually submit the signed certification statement in Section 18-313(5)(b) [Note: See 40 CFR 403.3(v)(2)]

Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

(3) Permit Conditions.

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

Wastewater Discharge Permits shall be expressly subject to all provisions of this Ordinance and all other regulations, user charges and fees established by the City. The conditions of Wastewater Discharge Permits shall be uniformly enforced by the City in accordance with this Ordinance, and applicable State and Federal regulations. Permits must contain all items required by Federal regulation; and further, may include but not necessarily be limited to the following:

- (a) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
- (b) Requirements that the industrial user comply with any and all pretreatment standards and requirements either local, state or federal;
- (c) A statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing permit to the new owner or operator;
- (d) The average and maximum wastewater constituents and characteristics;
- (e) Effluent limits, including pollution prevention alternative, based on applicable Pretreatment Standards;
- (f) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or pollution prevention alternative) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- (g) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 18-312(4)(b);

- (h) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;
 - (i) Requirements to control Slug Discharge, if determined by the Superintendent to be necessary;
 - (j) Any grant of the monitoring waiver by the Superintendent (Section 18-312(4)(b)) must be included as a condition in the User's permit;
 - (k) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (l) Requirements for installation of inspection and sampling facilities and schedules for said installation;
 - (m) Requirements for installation and operation of pretreatment systems or process modifications and schedule for said installations;
 - (n) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - (o) Requirements for maintaining plant records relating to wastewater discharge as specified by the Control Authority and affording the City access thereto;
 - (p) Requirements that the City maintain the right to enter onto the premises for inspection of operations including process areas, pretreatment areas, and any such other portions of the premises which may be deemed appropriate by the controlling authority;
 - (q) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit; and
 - (r) Other conditions as deemed appropriate by the Control Authority to insure compliance with this Ordinance and state and federal pretreatment standards and requirements.
- (4) Duration of Permits.

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The permittee must apply for a renewal permit not more than ninety (90) days and no less than seventy-five (75) days prior to the expiration of his or her valid permit. If the user is not notified by the Control Authority of permit expiration, the permit shall be considered extended for thirty (30) days at a time up to a total of one additional year. The terms and conditions of the permit may be subject to modification and change by the Control Authority during the life of the permit as limitations or requirements as identified hereinbefore are modified and changed. The user shall be informed of any proposed changes in his or her permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- (5) Transfer of a Permit.

Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premise, or a new or changed operation.

Sec. 18-311. Wastewater Discharge Permit Revocation

The Superintendent may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 18-312(5) of this ordinance;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports and certification statements;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Superintendent timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.

Sec. 18-312. Reporting Requirements

- (1) Baseline Monitoring Reports
 - (a) Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which

contains the information listed in subsection (1)(b) below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Superintendent a report which contains the information listed in subsection (1)(b) below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (b) Users described above shall submit the information set forth below.
 - (1) All information required in Section 18-310(2)(a)(1)(a), 18-310(2)(a)(2), 18-310(2)(a)(3)(a), and 18-310(2)(a)(6).
 - (2) Measurement of pollutants.
 - (a) The User shall provide the information required in Section 18-310(2)(a)(7)(a) through 18-310(2)(a)(7)(d).
 - (b) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the Control Authority;
 - (d) Sampling and analysis shall be performed in accordance with Section 18-313(1) and 18-313(2);
 - (1) The Superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - (2) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
 - (3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in 18-304(3) and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to

meet the Pretreatment Standards and Requirements.

- (4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 18-312(2) of this ordinance.
- (5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 18-313(5)(a) of this ordinance and signed by an Authorized Representative as defined in Section 18-304(3).

(2) Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 18-312(1)(b)(4) of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The User shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

(3) Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Superintendent a report containing the information described in Section 18-310(2)(a)(6), 18-310(2)(a)(7), and 18-312(1)(b)(2) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 18-309(1), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 18-313(5)(a) of this ordinance. All sampling will be done in conformance with Section 18-313(2).

(4) Periodic Compliance Reports

- (a) All permitted Significant Industrial Users must, at a frequency determined by the Superintendent submit no less than quarterly per year (unless otherwise specified), reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a pollution prevention alternative, the User must submit documentation required by the Superintendent or the Pretreatment Standard necessary to determine the compliance status of the User.
- (b) The City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. [see Tennessee Rule 1200-4-14-.12(5)(b)] This authorization is subject to the following conditions:
- (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
 - (2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 18-310(2)(a)(8).
 - (3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
 - (4) The request for a monitoring waiver must be signed in accordance with Section 18-304(3), and include the certification statement in Section 18-313(5)(a). (See Tennessee Rule 1200-4-14-.06(1)(b)2).
 - (5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
 - (6) Any grant of the monitoring waiver by the Superintendent must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Superintendent for 3 years after expiration of the waiver.
 - (7) Upon approval of the monitoring waiver and revision of the User's permit by the Superintendent, the Industrial User must certify on each report with the statement in Section 18-313(5)(c) below, that there has been no

increase in the pollutant in its wastestream due to activities of the Industrial User.

- (8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 18-312(4)(a), or other more frequent monitoring requirements imposed by the Superintendent, and notify the Superintendent.
 - (9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.
- (c) All periodic compliance reports must be signed and certified in accordance with Section 18-313(5)(a) of this ordinance.
 - (d) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
 - (e) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Superintendent, using the procedures prescribed in Section 18-313(2) of this ordinance, the results of this monitoring shall be included in the report.
- (5) Reports of Changed Conditions
- Each User must notify the Superintendent of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.
- (a) The Superintendent may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 18-310(2) of this ordinance.
 - (b) The Superintendent may issue an individual wastewater discharge permit under Section 18-310 of this ordinance or modify an existing wastewater discharge permit under Section 18-310(4) of this ordinance in response to changed conditions or anticipated changed conditions.
- (6) Reports of Potential Problems
- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

- (b) Within five (5) days following such discharge, the User shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) Significant Industrial Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

Sec. 18-313. Wastewater Sampling and Analysis.

(1) Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or other parties approved by EPA.

(2) Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period

- (a) Except as indicated in subsection (2)(b) and (2)(c) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Superintendent. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
- (b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 18-312(1) and 18-312(3) [Tennessee Rule 1200-4-14-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Superintendent may authorize a lower minimum. For the reports required by paragraphs Section 18-312(4) (Tennessee Rule 1200-4-14-.12(5) and (8)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(3) Control Manhole.

When required by the Control Authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Control Authority. The manhole shall be installed by the user at his expense, and shall be maintained by him so as to be safe and accessible at all times. The Control Authority shall have access and use of the control manhole as may be required for their monitoring of the industrial discharge.

(4) Recordkeeping.

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Superintendent.

(5) Certification Statements

(a) Certification of Permit Applications, User Reports and Initial Monitoring Waiver— The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 18-310(2)(b); Users submitting baseline monitoring reports under Section 18-312(1)(b)(5); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 18-312(3); Users submitting periodic compliance reports required by Section 18-312(4), and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 18-312(4)(b)(4). The following certification statement must be signed by an Authorized Representative as defined in Section 18-304(3):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for

gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- (b) Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the Superintendent pursuant to Section 18-304(42)(b) and 18-310(2)(b)(3) must annually submit the following certification statement signed in accordance with the signatory requirements in 18-304(3). This certification must accompany an alternative report required by the Superintendent:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR __, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

- (1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 18-304(42)(b);
- (2) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
- (3) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

- (c) Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 18-312(4)(b) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 18-312(4).

Sec. 18-314. Compliance Monitoring.

- (1) Monitoring Programs.
 - (a) The monitoring program shall require the discharger to conduct a sampling and analysis program of a frequency and type specified by the Control Authority to

demonstrate compliance with prescribed wastewater discharge limits. The discharger may either:

- (1) Conduct his or her own sampling and analysis program provided he demonstrates to the Control Authority that he or she has the necessary qualifications and facilities to perform the work; or,
 - (2) Engage a private laboratory, approved by the Control Authority.
- (b) In the event that the Control Authority suspects that a violation of any part of this ordinance or of the user's wastewater discharge permit is occurring, it may take samples for the purpose of monitoring the discharge. Should this monitoring verify that a violation is occurring, the costs of the monitoring and associated laboratory fees will be borne by the discharger. Should no violation be found, the costs will be at the expense of the Control Authority.
- (c) Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by a User indicates a violation, the User must notify the Superintendent within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs the sampling at the User's facility at least once a month, or if the City performs sampling at the User's facility between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

(2) Right of Entry: Inspection and Sampling

The Superintendent shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (a) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- (b) The Superintendent shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- (c) The Superintendent may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure their accuracy.
- (d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the

written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be born by the User.

- (e) Unreasonable delays in allowing the Superintendent access to the User's premises shall be a violation of this ordinance.

(3) Search Warrants

If the Superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Superintendent may seek issuance of a search warrant from the City Court of Oak Ridge.

Sec. 18-315. Confidential Information

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

Sec. 18-316. Publication of Users in Significant Noncompliance

The Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (3), (4) or (7) of this Section) and shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Sections 18-308 and 18-309.
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Sections 18-308 and 18-309 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

- (3) Any other violation of a Pretreatment Standard or Requirement as defined by Sections 18-308 and 18-309 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Superintendent determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s), which may include a violation of pollution prevention alternatives, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 18-317. Enforcement Procedures.

- (1) Administrative Enforcement Remedies.
 - (a) Notification of Violation: Whenever the Superintendent finds that any user has violated or violating this Ordinance, or a wastewater permit or order issued hereunder, the Superintendent or his agent may serve upon said user written notice of the violation (NOV). If required in the NOV, a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Superintendent within the time frame specified, not to exceed thirty (30) days. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.
 - (b) Consent Orders: The Superintendent is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with a user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to Section 18-317(1)(d) below.
 - (c) Show Cause Hearing: The Superintendent may order any user who is in violation of or causes or contributes to violation of this Ordinance or wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally

or by registered or certified mail (return receipt requested). Ten (10) days prior notice shall be given, if practical. Such notice may be served on any principal executive, general partner, corporate officer, site manager, or other person listed in pretreatment documents submitted by the user as a contact. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

- (d) Compliance Order: When the Superintendent finds that a user has violated or continues to violate the ordinance or a permit or order issued thereunder, he may issue and order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued or penalties imposed unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated or other improvements as specified are carried out. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, disconnection of unauthorized sources of flow, and management practices. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

- (e) Cease and Desist Orders: When the Superintendent finds that a user has violated or continues to violate this Ordinance or any permit or order issued hereunder, the Superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - (1) Comply forthwith;
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

- (f) Administrative Penalties: Notwithstanding any other section of this ordinance, any user who is found to have violated any provision of this Ordinance, or any permit or order issued hereunder, may be assessed a penalty in an amount not to exceed ten thousand dollars (\$10,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the Superintendent shall have such other collection remedies as he has to collect other service charges. Unpaid charges and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such penalties must file a request for the Superintendent to reconsider the penalty within 10 days of being notified of the fine. Where the Superintendent believes a request has merit, he shall convene a hearing on the matter within 15 days of receiving the request from the industrial user.

- (g) Emergency Suspensions:
 - (1) The Superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial

endangerment to the health or welfare of persons, the POTW, or the environment.

- (2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the endangerment has passed, unless termination proceedings are initiated against the user.
- (3) An industrial user who is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in Section 18-317(1)(c).

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

- (h) Revocation of Permit: The Superintendent may revoke the permit of any user as set forth in Section 18-311.
- (i) Appeal of Administrative Penalties: Upon issuance of any administrative order or penalty, the user shall be notified that he or she shall be entitled to a hearing upon such order or penalty. Request for such hearing must be made seven (7) days of notification of the administrative action. The hearing will be held before the City Manager and shall be heard within seven (7) days of the request for hearing. At the hearing, the Public Works Director or the Director's representative shall represent the Controlling Authority. The Controlling Authority and the customer shall be entitled to present evidence relevant and material to the penalty and to examine and cross examine witnesses. He may be represented by an attorney, if the user so chooses. The City Manager shall render a decision within seven (7) days upholding or overturning the administrative order or penalty. Notwithstanding the following, Emergency Suspensions as described in Section 18-317(1)(g) are effective immediately upon issuance, and right to appeal is contingent on compliance by the user.

(2) Judicial Remedies.

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this Ordinance or any order or permit issued hereunder, the Superintendent, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the applicable court.

- (a) Injunction Relief: Whenever a user has violated or continues to violate the provisions of this Ordinance or permit or order issued hereunder, the Superintendent, through counsel, may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the user. The Superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges. The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User

to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

(b) Civil Penalties:

- (1) Any user who has violated or continues to violate this Ordinance or any order or permit issued hereunder, shall be liable to the Superintendent for actual damages incurred by the POTW. In addition to damages, the Superintendent may recover reasonable attorney's fee, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
- (2) The Superintendent shall petition the Court to impose, assess, and recover such sums. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

(3) Criminal Actions.

- (a) Any industrial user who willfully or negligently violates any provision of this ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by penalty and imprisonment to the full extent allowed by law.
- (b) Any industrial user who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance or waste water permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punishable by a penalty and imprisonment to the full extent allowed by law.

(4) Affirmative Defenses.

- (a) Treatment Upsets: Any industrial user who experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the Superintendent thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five days. The report shall contain:
 - (1) A description of the upset, its cause(s) and impact on the discharger's compliance status.
 - (2) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.

- (3) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and the User can identify the cause(s) of the upset;
 - (b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (c) The User has submitted the following information to the Superintendent within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (1) A description of the indirect discharge and cause of noncompliance;
 - (2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (4) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
- (6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) Treatment Bypasses:

- (1) A bypass of the treatment system is prohibited unless all the following conditions are met:
 - (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and
 - (c) The industrial user properly notified the Superintendent as described in 18-317(4)(b)(2) below.
- (2) Industrial users must provide immediate notice to the Superintendent upon discovery of an unanticipated bypass. If necessary, the

Superintendent may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass, and the steps being taken to prevent its recurrence.

- (3) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the Superintendent at least 10 days in advance. The Superintendent may only approve the anticipated bypass if the circumstances satisfy those set forth in Section 18-317(4)(b)(1) above.

- (5) Remedies Nonexclusive.

The remedies provided for in this ordinance are not exclusive. The Superintendent may take any, all or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Superintendent may take other action against any User when the circumstances warrant. Further, the Superintendent is empowered to take more than one enforcement action against any noncompliant User.

Sec. 18-318. Industrial Waste Surcharge.

- (1) Surcharge based upon strength of wastes.

In the event the user discharges industrial wastes to the POTW having an average Biochemical Oxygen Demand (BOD) content in excess of 300 mg/l, and/or an average Suspended Solids (SS) content in excess of 300 mg/l, and/or an average Ammonia Nitrogen content in excess of 30 mg/l, the user may be required to pay a surcharge based upon the excess strength of their wastes.

- (2) Costs of treatment to be reviewed annually.

The costs of treatment for each pound of BOD, SS, and Ammonia Nitrogen removed by the POTW shall be reviewed at the end of each fiscal year and appropriate surcharge rates applied to the sewer billing. These rates shall be in effect until the next annual rate review.

Sec. 18-319. Validity.

- (1) Conflict.

In case of conflict or inconsistency, the provisions of this Ordinance shall supersede and take precedence over any other ordinance or part thereof or any other rules and regulations of the City of Oak Ridge.

- (2) Severability.

It is hereby declared the intention of City Council that sections, paragraphs, sentences, clauses, and words of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or word be declared unconstitutional or invalid by valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses, or words since the same would have been enacted without the incorporation of the unconstitutional section, paragraph, sentence, clause or word.

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:



City Attorney

Mayor

City Clerk

First Reading: 4/21/08
Publication Date: 4/28/08
Second Reading: _____
Publication Date: _____
Effective Date: _____

**ORDINANCE AS APPROVED
ON FIRST READING**

TITLE

AN ORDINANCE TO AMEND TITLE 18, TITLED "WATER AND SEWERS," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING CHAPTER 3, TITLED "SEWER USE ORDINANCE," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW CHAPTER 3, TITLED "SEWER USE ORDINANCE," TO UPDATE THE EXISTING SEWER USE PROVISIONS FOR COMPLIANCE WITH THE REQUIREMENTS SET FORTH BY THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION.

WHEREAS, the City of Oak Ridge has a need to update its Sewer Use Ordinance to comply with the requirements set forth by the State of Tennessee Department of Environment and Conservation.

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

Section 1. Title 18, titled "Water and Sewers," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting Chapter 3, titled "Sewer Use Ordinance," in its entirety and substituting therefor a new Chapter 3, titled "Sewer Use Ordinance," which new chapter shall read as follows:

**Chapter 3
Sewer Use Ordinance**

Sec. 18-301. Title.

This ordinance shall be known and designated as the "Sewer Use Ordinance."

Sec. 18-302. Administration.

Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to a duly authorized municipal employee.

Sec. 18-303. Abbreviations.

The following abbreviations, when used in this ordinance, shall have the meanings designated as follows:

- (1) BOD – Biochemical Oxygen Demand
- (2) BMR – Baseline Monitoring Report
- (3) CFR – *Code of Federal Regulation*
- (4) CIU – *Categorical Industrial user*
- (5) COD – Chemical Oxygen Demand
- (6) EPA – U.S. Environmental Protection Agency
- (7) gpd – gallons per day
- (8) IU – Industrial User

- (9) mg/l – milligrams per liter
- (10) NPDES – National Pollutant Discharge Elimination System
- (11) NSCIU – Non-significant Categorical Industrial User
- (12) POTW – Publicly Owned Treatment Works
- (13) RCRA – Resource Conservation and Recovery Act
- (14) SIU – Significant Industrial User
- (15) SNC – Significant Non-compliance
- (16) TSS – Total Suspended Solids
- (17) TTO – Total Toxic Organics
- (18) U.S.C. – United States Code

Sec. 18-304. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- (1) “Act” or “The Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977.
- (2) “The Approval Authority” means the State of Tennessee, Department of Environment and Conservation, Division of Water Pollution Control or any authorized representative.
- (3) “Authorized Representative of Industrial User” means:
 - (a) If the User is a corporation:
 - (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

- (c) If the User is a Federal, State or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (d) The individuals described in subsections (a)(1) and (a)(2) above may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- (4) "BOD" used in sewage or industrial waste shall designate its bio-chemical oxygen demand and shall mean the quantity of oxygen utilized in the bio-chemical oxidation of the organic matter of said sewage of industrial wastes under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter. It shall be determined by one of the acceptable methods described in the latest edition of "Standard Methods for Examination of Water and Waste Water," published by the American Public Health Association.
 - (5) "Building Sewer" means a sewer conveying wastewater from the premises of a User to the POTW (see (39)). A building sewer ends at the tap on the City main sewer transition main.
 - (6) "Categorical Industrial User" means any discharger subject to Categorical Pretreatment standards under 40 CFR Chapter I, Subchapter N (see (10)).
 - (7) "Categorical Pretreatment Standard or Categorical Standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
 - (8) "City" means the City of Oak Ridge acting as a municipal corporation under the laws of the State of Tennessee or the City Council of Oak Ridge, acting through the City Manager.
 - (9) "City Manager" means the City Manager of the City of Oak Ridge.
 - (10) "Code of Federal Regulations or CFR" means the publication of the same name by the Office of the Federal Register, National Archives and Records Administration containing a codification of the general and permanent rules published in the Federal Register by Executive department and agencies of the Federal Government. The Code of Federal Regulations is prima facie evidence of the text of the original documents. Cites to the document are as follows: XX CFR YYY where XX represents the Title and YYY representing chapter and section within that title. CFR documents are available from the Superintendent of Documents, US Government Printing Office, Washington, D.C. 20402.
 - (11) "Control Authority" means the City of Oak Ridge, Tennessee acting through the City Manager or the City Manager's authorized representative.
 - (12) "Customer" means any individual, firm, company, association, society, corporation or group who is the beneficiary of the water and sewer service or who is utilizing the water and/or sewer system of the City of Oak Ridge.
 - (13) "Daily Maximum" means the arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

- (14) "Daily Maximum Limit" means the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (15) "Garbage" means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- (16) "Grab Sample" means a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- (17) "Holding Tank Waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailer, septic tanks, and vacuum-pump tank trucks.
- (18) "Indirect Discharge" means the discharge or introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system) for treatment before direct discharge to the waters of the State of Tennessee.
- (19) "Industrial User" means a source of indirect discharge which does not constitute a "discharge of pollutants" under regulation issued pursuant to Section 402, of the Act.
- (20) "Industrial Wastewater" means the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.
- (21) "Instantaneous Limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (22) "Interference" means a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment.
- (23) "Local Limit" means specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).
- (24) "May" is permissive.
- (25) "Medical Waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (26) "Monthly Average" means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- (27) "Monthly Average Limit" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharged" measured during that month.
- (28) "National Pretreatment Standards" means any regulation containing pollutant

discharge limits promulgated by the EPA and in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to the industrial users.

- (29) "NPDES Permit" means the National Pollutant Discharge Elimination System as defined in Section 402 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500).
- (30) "New Source" means:
- (a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - (1) The building, structure facility, or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
 - (b) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (a)(2) or (a)(3) above but otherwise alters, replaces, or adds to existing process or production equipment.
 - (c) Construction of a New Source as defined under this section has commenced if the owner or operator has:
 - (1) Begun, or caused to begin, as part of a continuous onsite construction program
 - (a) any placement, assembly, or installation of facilities or equipment; or
 - (b) significant site preparation work including clearing, excavation, or removal of existing building, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this section.

- (31) "Noncontact Cooling Water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (32) "Pass Through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.
- (33) "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity, or other legal entity, or legal representative, agents or assigns. The masculine gender shall mean to include the feminine, the singular shall include the plural where indicated by the context.
- (34) "pH" means a measure of the acidity or alkalinity of a solution, expressed in standard units.
- (35) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (36) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.
- (37) "Pretreatment Requirements" means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- (38) "Pretreatment Standards" means all applicable rules and regulations contained in the Code of Federal Regulations as published in the Federal Register, under Section 307 of Public Law 92-500 and in the Tennessee Pretreatment Requirements, Chapter 1200-4-14.
- (39) "Publicly Owned Treatment Works or POTW" means a treatment works as defined by Section 212 of the Act, which is owned in this instance by the City of Oak Ridge. This definition includes any sewer that conveys wastewater to the treatment works.
- (40) "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm water as may be present.
- (41) "Shall" is mandatory.
- (42) "Significant Industrial User" means:
- (a) A Significant Industrial User means
 - (1) An Industrial User subject to categorical Pretreatment Standards; or
 - (2) An Industrial User that:

- (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
- (b) The City may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
- (1) The Industrial User, prior to City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (2) The Industrial User annually submits the certification statement required in Section 18-313(5)(b) [see Tennessee Rule 1200-4-14-.12(17)], together with any additional information necessary to support the certification statement; and
 - (3) The Industrial User never discharges any untreated concentrated wastewater.
- (c) Upon a finding that a User meeting the criteria in Subsection (b)(2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such User should not be considered a Significant Industrial User.
- (43) "Slug Load or Slug Discharge" means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 18-308 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
- (44) "Standard Methods" means the testing methods approved for use in 40 CFR 136 as appropriate.
- (45) "Storm Water" means any flow occurring during or immediately following any form of natural precipitation and resulting therefrom.
- (46) "Superintendent" means the City Manager or the City Manager's designee primarily responsible for wastewater discharges.

- (47) "Total Suspended Solids or Suspended Solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.
- (48) "Toxic Pollutant" means any pollutant or combination of pollutants listed as toxic in the regulations promulgated by the Administrator or Environmental Protection Agency under the provisions of 33 USC 1317.
- (49) "User" means any person discharging wastes to the City of Oak Ridge POTW.
- (50) "Waste" means any waste, including sewage and any other waste substances, liquid, solid, or gases that are radioactive, associated with human habitation, or human or animal origin, or from any producing, manufacturing, or processing operation or whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of disposal.
- (51) "Wastewater" means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (52) "Miscellaneous Terms" means terms not otherwise defined herein shall be defined as shown in the latest edition of Standard Methods for the Examination of Water and Wastewater or other appropriate Federal or State Guidelines and Regulations.

Sec. 18-305. Use of Public Sewers Required.

- (1) Disposal of Waste.

It shall be unlawful for any person to place, deposit, or permit to be deposited on public or private property within the City of Oak Ridge any human or animal excrement or other objectionable waste in such a manner to create a public nuisance or to create a threat or danger to the public health and safety. This section shall not apply to the depositing of animal excrement by livestock or through other generally accepted agricultural activities, nor to the depositing of excrement from household pets, provided such excrement is not deposited nor allowed to accumulate to such an extent as to cause a public nuisance or otherwise to constitute a threat or danger to the public health or safety, and provided further that it shall be unlawful to place, deposit, or to permit to be deposited upon the property of another within the City of Oak Ridge human or animal excrement or other objectionable waste in any amount without the permission of the owner of such property.

- (2) Direct Discharge Prohibited.

It shall be unlawful to discharge to any natural outlet within the City of Oak Ridge, or any area under the jurisdiction of said City, any sewage or other polluted waters, except where a Federal or State discharge permit has been duly issued and is currently valid for such discharge.

- (3) New Private Disposal Systems Prohibited.

Except as hereinafter provided or as otherwise permitted by ordinance or regulation, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other private facility intended or used for the disposal of sewage.

(4) City's Right to Require Sanitary Facilities.

The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes which abut upon a street, road, right-of-way or other public way containing a public sanitary sewer shall upon demand by the City install suitable toilet facilities therein and connect the same directly with the proper public sewer in accordance with the provisions of this ordinance and shall cease to use any other means for the disposal of sewage, waste, wastewater, and other polluting matter, provided however the City may waive such requirement in specific cases where it has determined that public sewer service to any particular individual user(s) would be unduly difficult or expensive and that alternative measures of disposal would not be hazardous to public health.

(5) City's Right to Require Sewer Hookup.

The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes which abut upon a street, road, right-of-way or other public way containing a public sanitary sewer shall upon demand by the City connect such house, building, improvement or property with the proper public sewer in accordance with the provisions of this ordinance and shall cease to use any other means for disposal of sewage, waste, wastewater or other polluting matter, provided however the City may waive such requirements in specific cases where it has determined that public sewer service to any particular individual user(s) would be unduly difficult or expensive and that alternative measures of disposal would not be hazardous to public health.

(6) Disposal of Private Waste by Truck.

The Superintendent shall designate the locations and times where vacuum or "cess pool" trucks may be discharged, and may refuse to accept any truckload of waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto. The owner or operator of a truck shall upon request, provide manifest to the POTW that states the source of the domestic waste they wish to discharge, the volume of wastewater from each source, and whether any industrial waste is included in the wastewater.

(7) Holding Tanks.

No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the Superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constitutes and characteristic of the discharge. Such user shall pay any applicable charges or fees therefore, and shall comply with the conditions of the permit issued by the Superintendent. Provided, however, no permit shall be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into and approved facility designed to receive such waste.

Sec. 18-306. Private Sewage Disposal.

The disposal of sewage by means other than the use of the available public sanitary sewage system shall be in accordance with local, county and state law. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the available public sanitary sewer system is not available, or where such is otherwise permitted by City ordinance or regulations.

Sec. 18-307. Building Sewers and Connections.

(1) **Connections of Building Sewers to POTW.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the Control Authority. The owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Control Authority.

(2) **Cost of Installation.**

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(3) **Separate Sewers Required.**

A separate and independent building sewer shall be provided for every building.

(4) **Old Building Sewers.**

Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by the City, to meet all requirements of this ordinance.

(5) **Construction Controls for New Sewers.**

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the International Plumbing Code and the International Residential Code shall apply.

(6) **Sewer Entrances to Private Facilities.**

Whenever possible, the building sewer shall be brought to the building at an elevations below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(7) **Extraneous Water Prohibited.**

No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Exceptions may be made only if such connection is approved by the Superintendent for purpose of disposal of polluted surface drainage or ground water. Such connections, if approved, will require a wastewater discharge permit.

(8) Quality of Construction.

All connections to the City system shall be made gas tight and watertight. Any deviations from the prescribed procedures and materials must be approved by the Control Authority before installation.

(9) Inspection of Sewers.

The applicant for the building sewer permit shall notify the Control Authority or his representative when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made by or under the supervision of the Control Authority.

(10) Excavation Safety.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public. Property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

(11) Condition of Private Sewers.

Users shall be responsible for the integrity of building sewers on his property. If it is determined that these lines are faulty or in a bad state of repair, such that extraneous storm water can enter the POTW, the City may require the customer to repair his pipes. If the pipes are not repaired within the time period allowed by the City, service shall be terminated.

(12) Grease Traps.

All cafes, restaurants, motels, hotels, or other commercial food preparation establishments shall install a grease trap on the kitchen waste line, provided however, all existing cafes, restaurants, motels, hotels, or other commercial food preparation establishments shall be required to construct a grease trap, at the owner's expense within ninety days after notification by the City, if and when the Control Authority determines that a grease problem exists which is capable of causing damage or operational problems to structures or equipment in the City sewer system, or if such is otherwise required by City Ordinance, State or Federal law. The City shall retain the right to inspect and approve installation of the grease trap facility. The grease trap must precede the septic tank on the kitchen waste line if a septic tank is used. The grease trap must be designed in accordance with current engineering standards and shall be easily accessible for cleaning. Grease traps shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the City sewer. If the City employees are required to clean out the City sewer lines as a result of a stoppage resulting from a clogged grease trap, the property owner or operator shall be required to pay the costs of the City labor and materials required to clean out the sewer lines. The installation of grease traps shall be in accordance with Section 18-307(2) of this Ordinance.

(13) Alteration to and Obstruction to City Sewers.

No person shall obstruct entrance to or operation of the City Sanitary Sewer System. Existing manholes are to be kept uncovered and accessible at all times. In the event that construction involving the filling of an area around a manhole occurs, the owner of the property, or the person causing the construction to be accomplished shall bear all costs associated with the required adjustment of the sewer manholes. Filling or grading of a property such that storm water concentrates at a manhole will not be permitted. The City reserves the right to enter onto its easements at all times to maintain its system and to

remove or cause to be removed all obstructions to said entrance, and furthermore to assess the costs of the removal of obstructions against the owner thereof.

(14) Maintenance of Building Sewers.

The owner of a building sewer is responsible for the maintenance (and replacement, if required) of the building sewer from his building to either (a) the tap on the city main sewer lines; or, (b) the point of confluence with flow from buildings owned by another owner; whichever is shorter. Should the building sewer cross a public right-of-way before entering the main line sewer, the property owner is responsible for maintenance of the line to the main line; however, should city owned facilities, such as sidewalks, curbs, gutters, or streets be disturbed by the repair of the building sewer, the City will repair said improvements as are reasonable disturbed by the work at no cost to the owner of the property. Operations in a public right-of-way require written permission of the City and proper safety provisions including but not limited to traffic control as outlined in the Manual of Uniform Traffic Control adopted by the State of Tennessee.

Sec. 18-308. Prohibitions and Limitations on Wastewater Discharge.

(1) Requirements of Wastewater Permits.

(a) No person shall discharge or cause to be discharged into the City of Oak Ridge POTW any wastewater other than domestic sewage resulting from normal human habitation including food preparation activities unless he holds a Wastewater Discharge Permit as defined in Section 18-310 of this ordinance. This section shall not apply to existing sources until they are notified of its requirement in writing.

(b) Persons discharging radionuclides only in addition to domestic sewage are required to obtain a Wastewater Treatment Permit unless:

(1) Material discharged is characterized by a half-life of less than ten days, and a lack of significant alpha activity; and,

(2) At no point along the collection system is activity more than double background levels at the surface with all manholes closed and the system functioning normally; and,

(3) No more than 500 microcuries of material are discharged per hour measured at the point of discharge into the wastewater collection system to a maximum of 3500 microcuries per day.

It is the responsibility of the discharging party to arrange for verification of these limits within five days of a written request to do so by the City.

(c) The Control Authority may waive the requirements for a Wastewater Discharge Permit on a case-by-case basis for dischargers whose effluent does not violate the criteria for domestic sewage as established by the controlling agency and who, furthermore, are not categorical users. Notwithstanding the following, existing non-permitted dischargers or dischargers who have had the permit requirement waived may be required to obtain a discharge permit upon sixty (60) days notification by the controlling authority based on the observed character of the user's operations or his waste stream or suspected impact on the POTW or other factors which the Control Authority may define.

(d) In order to avoid wastewater influent to the treatment plant which creates adverse effects, or interferes with any wastewater treatment or collection processes, or creates any hazard in receiving waters or results in the City being in violation of applicable effluent standards including sludge disposal standards, the Control Authority shall establish and amend wastewater effluent limits as deemed necessary. Limits for certain parameters are set as protection criteria for the POTW. Discharge limits for industrial users will be set in discharge permits as outlined in Section 18-310 of this ordinance. Such limits will be calculated based on the anticipated ability of the plant to absorb specific wastewater constituents without violation of its NPDES permit, safety of the public, and/or disruption of plant operations including sludge disposal; not to exceed, however, federal limits where applicable.

(e) Dilution.

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Superintendent may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

(2) Prohibitions on Wastewater Discharge.

Regardless of permit status, no person shall discharge or cause to allow to be discharged into the City of Oak Ridge POTW or any connected treatment facilities any waste which contains any of the following:

- (a) Oils and Grease: Fats, wax, grease or oils of more than one hundred (100) mg/l, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees F (0 degrees and 65 degrees C) at the point of discharge into the system.
- (b) Explosive Mixtures: Liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient to cause a fire or explosion hazard or be injurious in any other way to the POTW or to the operation of the system. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (L.E.L.). Prohibited materials included, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
- (c) Noxious Materials: Noxious or malodorous solids, liquids or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for its maintenance and repair.
- (d) Improperly Shredded Garbage: Garbage that has not been ground or comminuted to such a degree that all particles are ½ inch or less in greatest dimension and will be carried freely in suspension under flow conditions normally prevailing in the public sewers.
- (e) Radioactive Wastes: Radioactive wastes or isotopes of such half-life or concentration that they are in noncompliance with regulations issued by the

appropriate authority having control over their use and which will or may cause damage or hazards to the POTW or personnel operating the system.

- (f) Solids or Viscous Wastes: Solid or viscous waters which will or may cause obstruction to the flow in a sewer, or other interference with the proper operation of the POTW. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.
- (g) Excessive Discharge Rate: Wastewaters at a flow rate which is excessive relative to the capacity of the treatment works or which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewaters containing such concentrations or quantities of pollutants that their introduction into the treatment works over a relatively short time period (sometimes referred to as "slug" discharges) would cause a treatment process upset and subsequent loss of treatment efficiency.
- (h) Toxic Substances: Any toxic substances, chemical elements or compounds, phenols or other taste- or odor-producing substances, or any substances in amounts which may interfere with the biological processes or efficiency of the treatment works, or that will pass through the treatment works in concentrations which would cause the POTW to exceed its NPDES permit limits.
- (i) Unpolluted Waters: Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by the Superintendent.
- (j) Discolored Materials: Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit.
- (k) Corrosive Wastes: Any waste which will cause corrosion or deterioration of the POTW. All wastes discharged to the public sewer system must have a pH value in the range of six (6) to nine (9). Prohibited materials include, but are not limited to acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic products.
- (l) Thermal Discharge: Heat in amounts which will inhibit biological activity in or cause damage to the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment plant exceeds 40°C (104°F). Under no conditions may the temperature at the point of discharge exceed 120°F.
- (m) Human Hazard: Any wastewater which caused hazard to human life or creates a public nuisance.
- (n) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test.
- (o) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW.

(3) **Limitation on Wastewater Discharge.**

No person shall discharge or convey or cause to be discharged or conveyed to the public sewer any wastewater containing pollutants of such character or quantity that will:

- (a) Not be amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (b) Constitute a hazard to human or animal life or to the stream or water course receiving the treatment plant effluent.
- (c) Exceed limits as set forth in his Wastewater Discharge Permit or violate the Federal Pretreatment Standards.
- (d) Cause the treatment plant to violate its NPDES permit, pass-through limits, or other applicable receiving water standards, or cause interference with plant operations.
- (e) Contain any water or wastes whose strength or other characteristics exceed the limits for normal wastewater which may be established by the Control Authority.

Sec. 18-309. Control of Prohibited Wastes.

(1) **National Categorical Pretreatment Standards.**

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

- (a) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with subsections (d) and (e) below.
- (b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Superintendent may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- (c) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Superintendent shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).
- (d) The Superintendent may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Superintendent.
- (e) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 18-309 in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

- (f) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- (g) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Superintendent within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(2) Tennessee Pretreatment Standards.

Users must comply with Tennessee Pretreatment Standards codified at 1200-4-14.

(3) Regulatory Actions.

If wastewaters containing any substances in excess concentrations as described in Section 18-308 of this Ordinance are discharged or proposed to be discharged into the sewer system of the City of Oak Ridge or to any sewer system tributary thereto, the City shall take any action necessary to:

- (a) Prohibit the discharge of such wastewater.
- (b) Require a discharger to demonstrate that in-plant modifications will eliminate the discharge of such substances to a degree as to be acceptable to the City.
- (c) Require pretreatment, including storage facilities or flow equalization, necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations or Federal pretreatment standards and any other applicable requirements promulgated by the EPA in accordance with Section 307 of the Clean Water Act of 1977.
- (d) Require the person or discharger making, causing or allowing the discharge to pay any added cost of handling and treating excess loads imposed on the POTW. Nothing herein authorizes discharge, otherwise prohibited, upon payment of cost therefore.
- (e) Discontinue sewer service to the discharger until such time as the problem is corrected.
- (f) Take such other remedial action provided by law as may be deemed to be desirable or necessary to achieve the requirements of this Ordinance.

(4) Submission of Plans.

- (a) Where pretreatment or equalization of wastewater flows prior to discharge into any part of its POTW is required by the City of Oak Ridge; plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall be submitted to the Control Authority for review and approval. Approval shall in no way exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule or regulation of any governmental unit or the City. Any subsequent alterations or additions to such

pretreatment or flow-control facilities shall not be made without due notice to, and approval of, the Control Authority.

- (b) The Superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Superintendent may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Superintendent may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Superintendent of any accidental or Slug Discharge, as required by Section 18-309(6) of this ordinance; and
- (4) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(5) Pretreatment Facilities Operations.

If pretreatment or control of waste flows is required, such facilities shall be effectively operated and maintained by the user at his or her expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances and laws.

(6) Reporting of Accidental Discharges.

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- (b) Within five (5) days following such discharge, the User shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (6)(a) above. Employers shall ensure that all employees,

who could cause such a discharge to occur, are advised of the emergency notification procedure.

- (d) Significant Industrial Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

(7) Right of Entry.

Agents of the City of Oak Ridge, the Tennessee Department of Environment and Conservation (TDEC) and/or EPA upon presentation of credentials shall be permitted to enter all properties of the contributing industry for the purpose of inspection, observation, measurement, sampling, and testing.

Sec. 18-310. Wastewater Discharge Permits, Generally.

(1) Permits Required.

All persons proposing to connect to or discharge into the sanitary sewer system any material other than normal domestic waste shall be considered an Industrial User and must obtain a Wastewater Discharge Permit from the Control Authority before connecting to or discharging into the sanitary sewer. All existing industrial users connected to or discharging into the City's sanitary sewer must obtain a Wastewater Discharge Permit within sixty (60) days after notice from the City.

(2) Permit Application.

- (a) All Users required to obtain an individual wastewater discharge permit must submit a permit application. The Superintendent may require Users to submit all or some of the following information as part of a permit application:

- (1) Identifying Information.

- (a) The name and address of the facility, including the name of the operator and owner.
- (b) Contact information, description of activities, facilities, and plant production processes on the premises.

- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.

- (3) Description of Operations.

- (a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;
- (b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- (c) Number and type of employees, hours of operation, and proposed or actual hours of operation;

- (d) Type and amount of raw materials processed (average and maximum per day); and
 - (e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (4) Time and duration of discharges.
- (5) The location for monitoring all wastes covered by the permit.
- (6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 18-309(1)(c) (Tennessee Rule 1200-4-14-.06(5)).
- (7) Measurement of Pollutants.
 - (a) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process.
 - (c) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 18-313(1) of this ordinance. Where the Standard requires compliance with a pollution prevention alternative, such as the certification alternative in lieu of required monitoring for TTO, the User shall submit documentation as required by the Superintendent or the applicable Standards to determine compliance with the Standard.
 - (e) Sampling must be performed in accordance with procedures set out in Section 18-313(2) of this ordinance.
- (8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 18-312(4)(b) [1200-4-14-.12(5)(b)].
- (9) Any other information as may be deemed necessary by the Superintendent to evaluate the permit application.
- (b) Application Signatories and Certifications
 - (1) All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative

of the User and contain the certification statement in Section 18-313(5)(a).

- (2) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Superintendent prior to or together with any reports to be signed by an Authorized Representative.
- (3) A facility determined to be a Non-Significant Categorical Industrial User by the Superintendent pursuant to 18-304(42)(b) must annually submit the signed certification statement in Section 18-313(5)(b) [Note: See 40 CFR 403.3(v)(2)]

Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

(3) Permit Conditions.

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

Wastewater Discharge Permits shall be expressly subject to all provisions of this Ordinance and all other regulations, user charges and fees established by the City. The conditions of Wastewater Discharge Permits shall be uniformly enforced by the City in accordance with this Ordinance, and applicable State and Federal regulations. Permits must contain all items required by Federal regulation; and further, may include but not necessarily be limited to the following:

- (a) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
- (b) Requirements that the industrial user comply with any and all pretreatment standards and requirements either local, state or federal;
- (c) The average and maximum wastewater constituents and characteristics;
- (d) Effluent limits, including pollution prevention alternative, based on applicable Pretreatment Standards;
- (e) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or pollution prevention alternative) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- (f) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 18-312(4)(b);
- (g) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by

applicable Federal, State, or local law;

- (h) Requirements to control Slug Discharge, if determined by the Superintendent to be necessary;
- (i) Any grant of the monitoring waiver by the Superintendent (Section 18-312(4)(b)) must be included as a condition in the User's permit [or other control mechanism];
- (j) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (k) Requirements for installation of inspection and sampling facilities and schedules for said installation;
- (l) Requirements for installation and operation of pretreatment systems or process modifications and schedule for said installations;
- (m) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (n) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or pollution prevention alternative) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- (o) Requirements for maintaining plant records relating to wastewater discharge as specified by the Control Authority and affording the City access thereto;
- (p) Requirements that the City maintain the right to enter onto the premises for inspection of operations including process areas, pretreatment areas, and any such other portions of the premises which may be deemed appropriate by the controlling authority;
- (q) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit; and
- (r) Other conditions as deemed appropriate by the Control Authority to insure compliance with this Ordinance and state and federal pretreatment standards and requirements.

(4) Duration of Permits.

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The permittee must apply for a renewal permit not more than ninety (90) days and no less than seventy-five (75) days prior to the expiration of his or her valid permit. If the user is not notified by the Control Authority of permit expiration, the permit shall be considered extended for thirty (30) days at a time up to a total of one additional year. The terms and conditions of the permit may be subject to modification and change by the Control Authority during the life of the permit as limitations or requirements as identified hereinbefore are modified and changed. The user shall be informed of any proposed changes in his or her permit at least thirty (30) days prior to the effective date of change.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- (5) Transfer of a Permit.

Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premise, or a new or changed operation.

Sec. 18-311. Wastewater Discharge Permit Revocation

The Superintendent may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 18-312(5) of this ordinance;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports and certification statements;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Superintendent timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.

Sec. 18-312. Reporting Requirements

- (1) Baseline Monitoring Reports
 - (a) Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is

later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in subsection (1)(b) below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Superintendent a report which contains the information listed in subsection (1)(b) below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (b) Users described above shall submit the information set forth below.
- (1) All information required in Section 18-310(2)(a)(1)(a), 18-310(2)(a)(2), 18-310(2)(a)(3)(a), and 18-310(2)(a)(6).
 - (2) Measurement of pollutants.
 - (a) The User shall provide the information required in Section 18-310(2)(a)(7)(a) through 18-310(2)(a)(7)(d).
 - (b) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the Control Authority;
 - (d) Sampling and analysis shall be performed in accordance with Section 18-313(1) and 18-313(2);
 - (1) The Superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - (2) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
 - (3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in 18-304(3) and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation

and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

- (4) **Compliance Schedule.** If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 18-312(2) of this ordinance.
- (5) **Signature and Report Certification.** All baseline monitoring reports must be certified in accordance with Section 18-313(5)(a) of this ordinance and signed by an Authorized Representative as defined in Section 18-304(3).

(2) **Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by Section 18-312(1)(b)(4) of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The User shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

(3) **Reports on Compliance with Categorical Pretreatment Standard Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Superintendent a report containing the information described in Section 18-310(2)(a)(6), 18-310(2)(a)(7), and 18-312(1)(b)(2) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 18-309(1), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 18-313(5)(a) of this ordinance. All sampling will be done in conformance with Section 18-313(2).

(4) Periodic Compliance Reports

- (a) All permitted Significant Industrial Users must, at a frequency determined by the Superintendent submit no less than quarterly per year (unless otherwise specified), reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a pollution prevention alternative, the User must submit documentation required by the Superintendent or the Pretreatment Standard necessary to determine the compliance status of the User.
- (b) The City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. [see Tennessee Rule 1200-4-14-.12(5)(b)] This authorization is subject to the following conditions:
- (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
 - (2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 18-310(2)(a)(8).
 - (3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
 - (4) The request for a monitoring waiver must be signed in accordance with Section 18-304(3), and include the certification statement in Section 18-313(5)(a) (Tennessee Rule 1200-4-14-.06(1)(b)2).
 - (5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
 - (6) Any grant of the monitoring waiver by the Superintendent must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Superintendent for 3 years after expiration of the waiver.
 - (7) Upon approval of the monitoring waiver and revision of the User's permit by the Superintendent, the Industrial User must certify on each report with the statement in Section 18-313(5)(c) below, that there has been no

increase in the pollutant in its wastestream due to activities of the Industrial User.

- (8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 18-312(4)(a), or other more frequent monitoring requirements imposed by the Superintendent, and notify the Superintendent.
 - (9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.
- (c) All periodic compliance reports must be signed and certified in accordance with Section 18-313(5)(a) of this ordinance.
 - (d) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
 - (e) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Superintendent, using the procedures prescribed in Section 18-313(2) of this ordinance, the results of this monitoring shall be included in the report.
- (5) Reports of Changed Conditions
- Each User must notify the Superintendent of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.
- (a) The Superintendent may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 18-310(2) of this ordinance.
 - (b) The Superintendent may issue an individual wastewater discharge permit under Section 18-310 of this ordinance or modify an existing wastewater discharge permit under Section 18-310(4) of this ordinance in response to changed conditions or anticipated changed conditions.
- (6) Reports of Potential Problems
- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

- (b) Within five (5) days following such discharge, the User shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph 1, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) Significant Industrial Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

Sec. 18-313. Wastewater Sampling and Analysis.

(1) Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or other parties approved by EPA.

(2) Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period

- (a) Except as indicated in subsection (2)(b) and (2)(c) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Superintendent. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
- (b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 18-312(1) and 18-312(3) [Tennessee Rule 1200-4-14-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Superintendent may authorize a lower minimum. For the reports required by paragraphs Section 18-312(4) (Tennessee Rule 1200-4-14-.12(5) and (8)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(3) Control Manhole.

When required by the Control Authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Control Authority. The manhole shall be installed by the user at his expense, and shall be maintained by him so as to be safe and accessible at all times. The manhole shall be installed by the user at his expense, and shall be maintained by him so as to be safe and accessible at all times. The Control Authority shall have access and use of the control manhole as may be required for their monitoring of the industrial discharge.

(4) Recordkeeping.

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Superintendent.

(5) Certification Statements

(a) Certification of Permit Applications, User Reports and Initial Monitoring Waiver—
The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 18-310(2)(b); Users submitting baseline monitoring reports under Section 18-312(1)(b)(5); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 18-312(3); Users submitting periodic compliance reports required by Section 18-312(4), and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 18-312(4)(b)(4). The following certification statement must be signed by an Authorized Representative as defined in Section 18-304(3):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons

who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- (b) Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the Superintendent pursuant to Section 18-304(42)(b) and 18-310(2)(b)(3) must annually submit the following certification statement signed in accordance with the signatory requirements in 18-304(3). This certification must accompany an alternative report required by the Superintendent:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR __, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

- (1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 18-304(42)(b);
- (2) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
- (3) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

- (c) Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 18-312(4)(b) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 18-312(4).

Sec. 18-314. Compliance Monitoring.

- (1) Monitoring Programs.
 - (a) The monitoring program shall require the discharger to conduct a sampling and analysis program of a frequency and type specified by the Control Authority to

demonstrate compliance with prescribed wastewater discharge limits. The discharger may either:

- (1) Conduct his or her own sampling and analysis program provided he demonstrates to the Control Authority that he or she has the necessary qualifications and facilities to perform the work; or,
 - (2) Engage a private laboratory, approved by the Control Authority.
- (b) In the event that the Control Authority suspects that a violation of any part of this ordinance or of the user's wastewater discharge permit is occurring, it may take samples for the purpose of monitoring the discharge. Should this monitoring verify that a violation is occurring, the costs of the monitoring and associated laboratory fees will be borne by the discharger. Should no violation be found, the costs will be at the expense of the Control Authority.
- (c) Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by a User indicates a violation, the User must notify the Superintendent within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs the sampling at the User's facility at least once a month, or if the City performs sampling at the User's facility between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

(2) Right of Entry: Inspection and Sampling

The Superintendent shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (a) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- (b) The Superintendent shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- (c) The Superintendent may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure their accuracy.
- (d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the

written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be born by the User.

- (e) Unreasonable delays in allowing the Superintendent access to the User's premises shall be a violation of this ordinance.

(3) Search Warrants

If the Superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Superintendent may seek issuance of a search warrant from the City Court of Oak Ridge.

Sec. 18-315. Confidential Information

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

Sec. 18-316. Publication of Users in Significant Noncompliance

The Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (3), (4) or (7) of this Section) and shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Sections 18-308 and 18-309.
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Sections 18-308 and 18-309 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

- (3) Any other violation of a Pretreatment Standard or Requirement as defined by Sections 18-308 and 18-309 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Superintendent determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s), which may include a violation of pollution prevention alternatives, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 18-317. Enforcement Procedures.

- (1) Administrative Enforcement Remedies.
 - (a) Notification of Violation: Whenever the Superintendent finds that any user has violated or violating this Ordinance, or a wastewater permit or order issued hereunder, the Superintendent or his agent may serve upon said user written notice of the violation (NOV). If required in the NOV, a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Superintendent within the time frame specified, not to exceed thirty (30) days. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.
 - (b) Consent Orders: The Superintendent is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with a user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to Section 18-317(1)(d) below.
 - (c) Show Cause Hearing: The Superintendent may order any user who is in violation of or causes or contributes to violation of this Ordinance or wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally

or by registered or certified mail (return receipt requested). Ten (10) days prior notice shall be given, if practical. Such notice may be served on any principal executive, general partner, corporate officer, site manager, or other person listed in pretreatment documents submitted by the user as a contact. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

- (d) Compliance Order: When the Superintendent finds that a user has violated or continues to violate the ordinance or a permit or order issued thereunder, he may issue and order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued or penalties imposed unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated or other improvements as specified are carried out. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, disconnection of unauthorized sources of flow, and management practices. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- (e) Cease and Desist Orders: When the Superintendent finds that a user has violated or continues to violate this Ordinance or any permit or order issued hereunder, the Superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - (1) Comply forthwith;
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- (f) Administrative Penalties: Notwithstanding any other section of this ordinance, any user who is found to have violated any provision of this Ordinance, or any permit or order issued hereunder, may be assessed a penalty in an amount not to exceed ten thousand dollars (\$10,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the Superintendent shall have such other collection remedies as he has to collect other service charges. Unpaid charges and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such penalties must file a request for the Superintendent to reconsider the penalty within 10 days of being notified of the fine. Where the Superintendent believes a request has merit, he shall convene a hearing on the matter within 15 days of receiving the request from the industrial user.
- (g) Emergency Suspensions:
 - (1) The Superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial

endangerment to the health or welfare of persons, the POTW, or the environment.

- (2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the endangerment has passed, unless termination proceedings are initiated against the user.
- (3) An industrial user who is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in Section 18-317(1)(c).

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

- (h) Revocation of Permit: The Superintendent may revoke the permit of any user as set forth in Section 18-311.
- (i) Appeal of Administrative Penalties: Upon issuance of any administrative order or penalty, the user shall be notified that he or she shall be entitled to a hearing upon such order or penalty. Request for such hearing must be made seven (7) days of notification of the administrative action. The hearing will be held before the City Manager and shall be heard within seven (7) days of the request for hearing. At the hearing, the Public Works Director or the Director's representative shall represent the Controlling Authority. The Controlling Authority and the customer shall be entitled to present evidence relevant and material to the penalty and to examine and cross examine witnesses. He may be represented by an attorney, if the user so chooses. The City Manager shall render a decision within seven (7) days upholding or overturning the administrative order or penalty. Notwithstanding the following, Emergency Suspensions as described in Section 18-317(1)(g) are effective immediately upon issuance, and right to appeal is contingent on compliance by the user.

(2) **Judicial Remedies.**

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this Ordinance or any order or permit issued hereunder, the Superintendent, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the applicable court.

(a) **Injunction Relief:** Whenever a user has violated or continues to violate the provisions of this Ordinance or permit or order issued hereunder, the Superintendent, through counsel, may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the user. The Superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges. The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

(b) **Civil Penalties:**

(1) Any user who has violated or continues to violate this Ordinance or any order or permit issued hereunder, shall be liable to the Superintendent for actual damages incurred by the POTW. In addition to damages, the Superintendent may recover reasonable attorney's fee, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

(2) The Superintendent shall petition the Court to impose, assess, and recover such sums. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

(3) **Criminal Actions.**

(a) Any industrial user who willfully or negligently violates any provision of this ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by penalty and imprisonment to the full extent allowed by law.

(b) Any industrial user who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance or waste water permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punishable by a penalty and imprisonment to the full extent allowed by law.

(4) **Affirmative Defenses.**

(a) **Treatment Upsets:** Any industrial user who experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of

operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the Superintendent thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five days. The report shall contain:

- (1) A description of the upset, its cause(s) and impact on the discharger's compliance status.
- (2) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.
- (3) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and the User can identify the cause(s) of the upset;
 - (b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (c) The User has submitted the following information to the Superintendent within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (1) A description of the indirect discharge and cause of noncompliance;
 - (2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (4) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
- (6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) Treatment Bypasses:

- (1) A bypass of the treatment system is prohibited unless all the following conditions are met:
 - (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and
 - (c) The industrial user properly notified the Superintendent as described in 18-317(4)(b)(2) below.
- (2) Industrial users must provide immediate notice to the Superintendent upon discovery of an unanticipated bypass. If necessary, the Superintendent may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass, and the steps being taken to prevent its recurrence.
- (3) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the Superintendent at least 10 days in advance. The Superintendent may only approve the anticipated bypass if the circumstances satisfy those set forth in Section 18-317(4)(b)(1) above.

(5) Remedies Nonexclusive.

The remedies provided for in this ordinance are not exclusive. The Superintendent may take any, all or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Superintendent may take other action against any User when the circumstances warrant. Further, the Superintendent is empowered to take more than one enforcement action against any noncompliant User.

Sec. 18-318. Industrial Waste Surcharge.

(1) Surcharge based upon strength of wastes.

In the event the user discharges industrial wastes to the POTW having an average Biochemical Oxygen Demand (BOD) content in excess of 300 mg/l, and/or an average Suspended Solids (SS) content in excess of 300 mg/l, and/or an average Ammonia Nitrogen content in excess of 30 mg/l, the user shall pay a surcharge based upon the excess strength of their wastes.

(2) Costs of treatment to be reviewed annually.

The costs of treatment for each pound of BOD, SS, and Ammonia Nitrogen removed by the POTW shall be reviewed at the end of each fiscal year and appropriate surcharge rates applied to the sewer billing. These rates shall be in effect until the next annual rate review.

Sec. 18-319. Validity.

(1) Conflict.

In case of conflict or inconsistency, the provisions of this Ordinance shall supersede and take precedence over any other ordinance or part thereof or any other rules and regulations of the City of Oak Ridge.

(2) Severability.

It is hereby declared the intention of City Council that sections, paragraphs, sentences, clauses, and words of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or word be declared unconstitutional or invalid by valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses, or words since the same would have been enacted without the incorporation of the unconstitutional section, paragraph, sentence, clause or word.

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:



City Attorney

Mayor

City Clerk

First Reading: 4/21/08
Publication Date: 4/28/08
Second Reading: _____
Publication Date: _____
Effective Date: _____

PUBLIC WORKS MEMORANDUM
08-44

DATE: December 22, 2008

TO: James R. O'Connor, City Manager

THROUGH: Gary M. Cinder, P.E., Director of Public Works

FROM: Steven R. Byrd, P.E., City Engineer

SUBJECT: Emory Valley Road Proposed Access to Serve Lots 26.01 & 26.02, Anderson County Tax Map 100G Group A Parcels 8 and 9

The accompanying resolution authorizes approval of a joint access to Emory Valley Road that will serve Lots 26. 02 and Lot 26.01 (Anderson County Tax Map 100G Group A Parcel 8 and 9).

The property owners of Lot 26.02, Emory Valley Center, and Lot 26.01, James A. Barker Family Partnership LP, are requesting City Council's approval of a joint access to Emory Valley Road, an arterial street as shown on the enclosed drawing. The proposed joint access will be located on the common lot line within an easement area that was recorded by resubdivision plat in 1991 for the purpose of having an access at an existing median opening on Emory Valley Road. If approved, the access will be constructed back to the Emory Valley Road right-of-way limits and a gate will be installed until full access use is needed.

Within the next three to five years, Emory Valley Center proposes to build a new 30,000 square feet building addition at their current location on Emory Valley Road. The Center's existing 7,000 square feet workshop building will be demolished and the new addition will be constructed on their adjacent Lot 26.02. The addition will accommodate programs that are currently held in the Daniel Arthur Building located on the opposite side of Emory Valley Road and include the Nursing Program, Supported Employment Program, Day Program and the Arc of Anderson County.

The James A. Barker Family Partnership LP is presently grading Lot 26.01 (2.72 acres) for future development. Accesses proposed to serve the lot will be the joint access on Emory Valley Road and two secondary accesses on Franklin Road. Franklin Road is not an arterial street and does not require City Council approval for accesses. The developer wants to construct the Emory Valley Road access now while a grading contractor is on-site. The site will be seeded and mulched after the grading operation is completed. Timing of the actual development will occur based on the market interest for the property that is zoned IND-1. IND-1 zoning is a light industrial district established to provide areas in which the principal use of land is for light manufacturing and assembly plants, storage, warehousing, wholesaling, and distribution.

New generated traffic trips for the light industrial use on Lot 26.01 and the expanded Emory Valley Center facility were projected for the weekday one-hour peak AM and PM traffic periods. Traffic trips for the IND-1 district were taken from the Institute of Transportation Engineers Trip Generation Manual for a proposed 25,200 square feet General Light Industrial use. Staff feels that this use is appropriate to determine traffic trips within an IND-1 zoning district. Traffic trips for the Emory Valley Center expansion were compiled from an actual traffic turning movement count conducted during peak hours, then doubled to account for the future traffic trips. The traffic trips for both uses were then combined for a full build-out condition. The Emory Valley Road entering and exiting traffic trips for full build-out have been distributed at the proposed joint access, the existing Emory Valley Center access and at the Franklin Road intersection. The traffic trips do not reflect through traffic movements on Emory Valley Road or entering/exiting movements at the Daniel Arthur Building.

Average Daily Traffic on Emory Valley Road is approximately 14,700. An exclusive left-turn lane exists in the Emory Valley Road median strip for the existing Emory Valley Center access, at the

Franklin Road intersection and for left-turns into the Daniel Arthur Building at its principal access. The intersection sight distance at the three access locations is more than adequate for the posted 40 MPH speed limit on Emory Valley Road. A review of available warrant guidelines for a left-turn deceleration lane indicates that such lane is not warranted for the westbound left-turn movements at the joint access. Expansion of the Emory Valley Center will improve pedestrian safety in the area where current pedestrians cross Emory Valley Road to access the Daniel Arthur Building.

The Traffic Safety Advisory Board reviewed and recommended approval of the access at their December 16, 2008 meeting. City staff recommends approval of the accesses and feels that there will be minimal traffic problems along Emory Valley Road for these uses based on the relatively low projected traffic volume movements that are distributed over the three access locations.


Steven R. Byrd

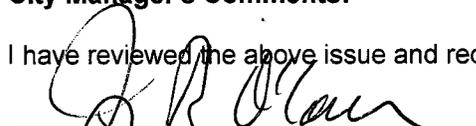
ks

Enclosures (2)

pc: Jim Barker, James A. Barker Family Partnership LP
Jennifer Enderson, President, Emory Valley Center

City Manager's Comments:

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


James R. O'Connor

12/30/08
Date

COMMUNICATION

RECEIVED

DEC 28 2008 AM 8:51

Subject: Proposed Access to Lots 26.01 and 26.02 from Emory Valley Road
OFFICE OF THE CITY CLERK

To: Honorable Mayor and members of City Council:

At the Dec 16 regularly called meeting of the Traffic Safety Advisory Board, a proposal was presented for street access from lots 26.01 and 26.02 to Emory Valley Road. Six of the ten members of the board were present, staff representative Steve Byrd made the presentation, and guests included representatives of the parties owning the two lots in question.

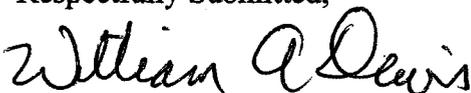
Lot 26.01 was recently cleared, and the two property owners wish to install the access at this time while they have equipment available to do the work. The proposed access is to be a joint access to both lots, on the lot line, and aligned with an existing median cut in the median along Emory Valley Road. This median cut also aligns with an access on the north side of Emory Valley road which enters a parking lot located on the west side of the old Daniel Arthur Center, (where the remote location of the Anderson County clerk's office is located at present).

Neither of the lots is planned to be developed immediately. Lot 26.01, recently cleared, is zoned for Industrial-1, which typically supports light manufacturing and assembly plants, storage, warehousing, etc. Lot 26.02 is owned by Emory Valley Center, and on a time scale of 5 years they plan to replace an existing building with a larger structure, which will support existing client programs, and programs they currently locate in the old Daniel Arthur center.

Steve presented projected peak traffic flow expected at this intersection, with the peak development expected for both of these lots. The street is presently posted at 40 mph. Sight distance is more than adequate on Emory Valley Road. Because of the relatively low traffic flow impact no additional off site street modifications are suggested to support this access. The owners indicate they wish to install, and pave the access to Emory Valley road, and then chain it off until the time at which one of the parties begins to develop their lot. Each lot will be serviced by other accesses. Emory Valley Center has an existing Emory Valley Road access serving lot 23.00 which is planned to also serve lot 26.02. Lot 26.01 intends to have a second access to Franklin Road. A service road connecting to Franklin Road is also proposed to serve the rear of their proposed structure.

Following short discussion with Steve and the guests, it was moved, seconded, and passed 6 to 0 to recommend support for staff's proposal regarding this access. I would add that this is the first access request I can remember where there was no immediate plan to develop the lots being served.

Respectfully Submitted,



William A Davis
Chairman, Traffic Safety Advisory Board



EMORY VALLEY ROAD

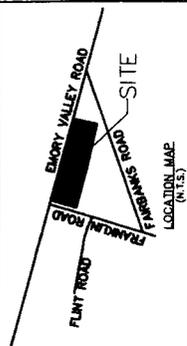
FRANKLIN ROAD

DANIEL ARTHUR CENTER

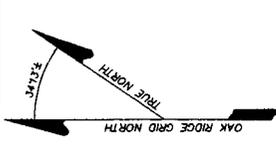
ERC

PROPOSED
JOINT
ACCESS

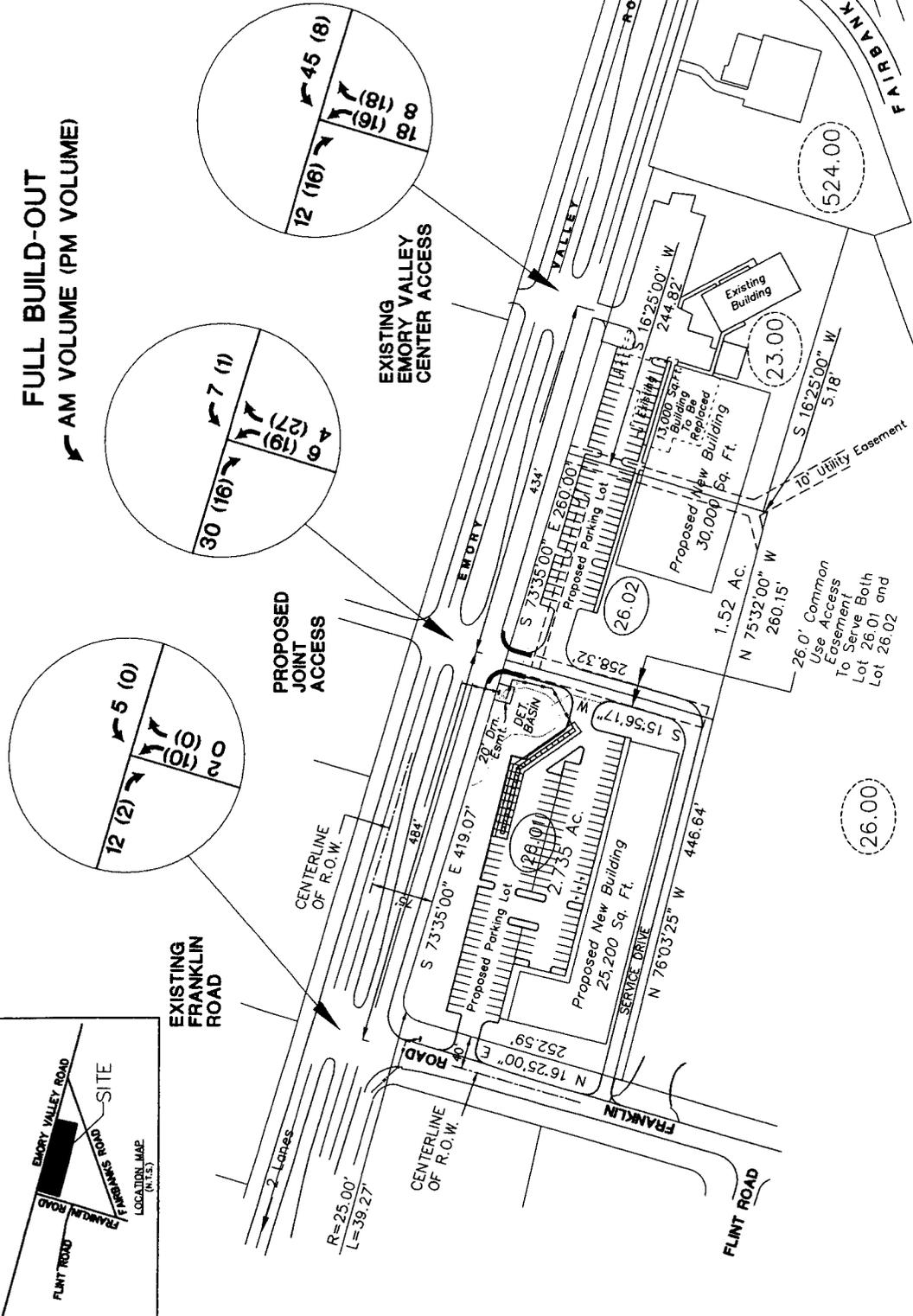
FAIRBANKS ROAD



**FULL BUILD-OUT
AM VOLUME (PM VOLUME)**



BEARINGS SHOWN HEREON REFER TO THE OAK RIDGE GRID NORTH SYSTEM AND DO NOT REFER TO EITHER MAGNETIC OR TRUE NORTH.



OWNER OF LOT 26.01
JAB DEVELOPMENT, LP.
 1937 HICKORY GLEN ROAD
 KNOXVILLE, TN 37932
 PHONE: (865) 693-5507

OWNER OF LOT 26.02
EMORY VALLEY CENTER, INC.
 715 EMORY VALLEY ROAD
 OAK RIDGE, TN 37890
 PHONE: (865) 483-4385

NOTE: PLAT COMPILED FROM EXISTING INFORMATION.
 NOTE: THIS DRAWING HAS BEEN MODIFIED BY THE C.O.R. ENGINEERING.



SCALE: 1 INCH = 200 FEET
 DATE: DECEMBER 3, 2008

DRAWN BY:
LACKEY AND ASSOCIATES, INC.
 214 MAIN STREET
 OLIVER SPRINGS, TN 37840
 PHONE: (865) 455-7663

**SITE PLAN FOR PROPOSED ACCESS
 TO EMORY VALLEY ROAD
 TO SERVE LOTS
 PARCEL 26.01, BLOCK 20CF
 AND
 PARCEL 26.02, BLOCK 20CF**

OAK RIDGE, TENNESSEE
 SECOND CIVIL DISTRICT ~ ANDERSON COUNTY, TENNESSEE
 DRAWING NO. 08-1649

RESOLUTION

WHEREAS, Emory Valley Center, owner of Anderson County Tax Map 100G, Group A, Parcel 9 (formerly Lot 26.02), and James A. Barker Family Partnership, owner of Anderson County Tax Map 100G, Group A, Parcel 8 (formerly Lot 26.01), have requested a permanent common access to Emory Valley Road from such parcels to serve Emory Valley Center and the future development on Anderson County Tax Map 100G, Group A, Parcel 8; and

WHEREAS, the requested access is located at the common lot line of the parcels across from the existing median opening on Emory Valley Road; and

WHEREAS, Emory Valley Road is an arterial road requiring City Council approval of access; and

WHEREAS, the requested access location has been reviewed by the Traffic Safety Advisory Board at its December 16, 2008 meeting, which Board recommended approval; and

WHEREAS, the requested access location is recommended by the City Manager.

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

That the recommendation of the City Manager is accepted and the permanent common access to Emory Valley Road from Anderson County Tax Map 100G, Group A, Parcels 8 and 9, as shown on the drawing attached hereto, dated December 3, 2008, is hereby approved.

This the 12th day of January 2009.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk

CITY COUNCIL MEMORANDUM
08-56

DATE: December 31, 2008

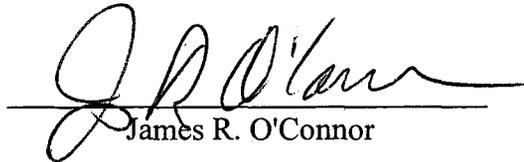
TO: Honorable Mayor and Members of City Council

FROM: James R. O'Connor, City Manager

SUBJECT: OAK RIDGE CHAMBER OF COMMERCE –
“LIVE-WHERE-YOU-WORK” PROGRAM

Attached is a proposal from the Oak Ridge Chamber of Commerce to fund a position to promote the “Live-Where-You-Work” program. The cost to the City is \$20,000, and the Chamber of Commerce will provide the remainder of the funding.

A resolution agreeing to contribute \$20,000 to assist with the direct costs of funding a Relocation Specialist position, which position shall be dedicated to attracting new residents to the City, is attached.


James R. O'Connor

Attachments

OAK RIDGE
Chamber of Commerce



1400 Oak Ridge Turnpike
Oak Ridge, Tennessee 37830
Phone: 865-483-1321
Fax: 865-483-1678
www.orcc.org

December 30, 2008

Mayor Tom Beehan
Oak Ridge City Council
P.O. Box 1
Oak Ridge, TN 37831

Dear Mayor Beehan and Members of Council:

On October 6, 2008 Mayor *Pro Tem* Jane Miller gave a presentation to Council regarding the findings and recommendations of the Oak Ridge Chamber's "Live-Where-You-Work" Task Force. The task force has found that the Chamber's housing/population initiatives could be enhanced if additional resources, sufficient to engage dedicated staffing, were available. At that meeting it was proposed that Ms. Miller, the City Manager and a team from the Chamber convene to negotiate a final proposal for Council consideration.

On December 4, 2008 that meeting occurred, and the attached proposal is the result of those conversations.

Chamber funds discussed in this proposal have already been budgeted through the adoption of our 2009 budget and conceptual approval of this proposal has been secured. Though full details will not be presented to our board of directors until January 7, 2009, since Council is operating on an accelerated schedule due to Martin Luther King Day, I believed it prudent to submit this to you in time for your January 5 discussions. Should our board of directors make any substantive changes, I will advise you through the City Manager.

I am looking forward to attending your January 5 session.

Sincerely,

A handwritten signature in black ink, appearing to read "Parker Hardy". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Parker Hardy, CCE
President

cc: Jim O'Connor

**Proposal
To
Oak Ridge City Council
From
Oak Ridge Chamber of Commerce
Regarding
At Home In the Innovation Valley Residential Recruitment Initiative**

December 30, 2008

In October of 2008 a presentation was made to the Oak Ridge City Council regarding the work of the Oak Ridge Chamber's, "Live-Where-You-Work" Task Force. To gather opinions and information, members of the task force had conducted interviews with key executives associated with major Oak Ridge employers. Also, Mr. Gerald Boyd, Manager of Oak Ridge Operations for the U.S. Department of Energy, hosted a meeting with virtually all major federal contactors.

In summary, the task force has found that "key attractors" influencing Oak Ridge residency are:

- Interaction with Realtor
- Schools
- City Services
- Interaction with family/friends/boss
- Reluctance to commute

Knox County "attractors" are:

- Interaction with Realtor
- Choice of Housing
- Shopping/retail
- Restaurants
- Interaction with family, friends, boss
- Perceived lower taxes
- Willingness to commute

As Council is aware, for the last several years the Chamber has focused heavily on attracting the development of a new generation of housing stock. Some 5,000 homes are now planned in developments scattered throughout the city. With new inventory in the pipeline, the Chamber has shifted our housing/population focus toward residential recruitment. A new arsenal of promotional material has been developed, our website is being revamped and our award winning interactive portfolio is being distributed to employers, Realtors and others who request it. We have conducted our first outreach tour for human resources professionals and are planning for our 2009 Housing Summit.

Though our nation struggles with recessionary job losses, Oak Ridge is experiencing significant job growth. New hires are being engaged for new missions and to replace retiring those employees.

Now, we believe, is an opportune time for the Chamber and the City to invest additional resources toward population growth by engaging a Relocation Specialist as a member of the Chamber staff. As the attached draft job description demonstrates, this position will be focused *solely on matters associated with attracting new residents to the City of Oak Ridge.*

The Chamber's Board of Directors has already adopted a 2009 Housing/Population program and budget. Funds within that budget match the proposed \$20,000 investment from the city.

We request that Council invest an additional \$20,000 toward this community effort. This will be sufficient to fund up to one half of the direct costs associated with the proposed Relocation Specialist. The Chamber will pay for the remaining direct costs, all indirect expenses and all program costs.

As is our practice, the position's availability will be publically advertised. The relocation specialist will report to the Chamber President through a supervising Vice President and Executive Vice President. The individual will work closely with a Chamber Board-appointed advisory group that will include key chamber leadership, Mayor *Pro-tem* Miller, a city staff member to be appointed by the City Manager, a Realtor and a homebuilder or residential developer.

Draft

Oak Ridge Chamber of Commerce

Job Description

Relocation Specialist

Duties

Develop and implement plans and procedures to insure a continuous and up-to-date effort in the area of new resident recruitment and community integration. Such activities will include, but not be limited to, the following:

- Foster relationships with local human resource professionals and develop a process to assist local business and industry in communicating the advantages of living in Oak Ridge.
- Develop a marketing strategy focused on positioning Oak Ridge as the preferred location to live in the *Innovation Valley*.
- Contact local businesses, organizations and Realtors to acquaint them with the services of the *Oak Ridge: At Home in the Innovation Valley* program.
- Build and maintain a comprehensive resource library including relevant demographic and statistical information
- Develop, produce, and distribute appropriate communications vehicles to help new residents become integrated into the community.
- Recruit a team of volunteers to serve as hosts and to provide tours of the community as needed.
- Develop and conduct a public awareness program education program. Use speaking engagements and civic participation as a means to keep the program in the public eye.
- Schedule and manage a minimum of two New Resident Receptions annually
- Other duties as assigned.

The Relocation Specialist will team with other staff members as necessary to achieve the related goals of the Oak Ridge Chamber of Commerce and the Oak Ridge Economic Partnership.

Qualifications

Preferred candidates will:

- Be a resident of the City of Oak Ridge and have demonstrated knowledge of the community
- Possess a Bachelor's degree in business, marketing, public relations or related discipline or have equivalent professional experience.
- Demonstrate oral and written communications skills appropriate to target audiences.
- Possess effective organization skills and demonstrated ability to manage multiple assignments
- Experience in establishing and maintaining effective relationships with a variety of stakeholder groups

Accountable to:
Staff Vice President

December 30, 2008

RESOLUTION

WHEREAS, on October 6, 2008, City Council was presented with the findings and recommendations of the Oak Ridge Chamber of Commerce's (Chamber) "Live-Where-You-Work" Task Force; and

WHEREAS, the Task Force found that the Chamber's housing and population initiatives would be enhanced with additional resources in the form of dedicated staffing; and

WHEREAS, the Chamber proposes to establish a Relocation Specialist position to attract new residents to the City and requests the City to fund \$20,000 of this position's direct costs.

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

That the City hereby agrees to a one-time contribution of \$20,000 to the Oak Ridge Chamber of Commerce (Chamber) to assist with the direct costs of funding a Relocation Specialist position, which position shall be dedicated to attracting new residents to the City in light of the Chamber's "Live-Where-You-Work" Task Force recommendations, said contribution shall be made at the time of hiring the Relocation Specialist.

BE IT FURTHER RESOLVED that after one year from the date of this resolution the Council may consider additional requests for funding the position from the Chamber, provided that the Chamber file a detailed progress report on the goals and objectives achieved by the Relocation Specialist.

This the 12th day of January 2009.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk

GOVERNMENT AND PUBLIC AFFAIRS MEMORANDUM
08-07

TO: James R. O'Connor
City Manager

FROM: Amy Fitzgerald, Ph.D.
Government and Public Affairs Coordinator

DATE: December 30, 2008

RE: **RESOLUTION ACCEPTING PAYMENT IN LIEU OF TAXES FROM THE U.S.
DEPARTMENT OF ENERGY FOR TAX YEAR 2008**

An item for the January 12th City Council meeting agenda is the adoption of the attached resolution authorizing acceptance of an amendment to the intergovernmental agreement between the City of Oak Ridge and the U.S. Department of Energy (DOE), which serves as the basis for the receipt of Payment in Lieu of Taxes (PILT) in the amount of \$1,476,023.48.

Payment for 2008 is based on 33,045.61 acres owned by DOE within the city limits. This reflects a reduction of 40.26 acres associated with the transfer of the ETTP Fire Station to the City, and the conveyance of several parcels--including Parcel ED-5 West--to the Community Reuse Organization of East Tennessee (CROET).

The 2008 payment reflects the increase in the per acre valuation of DOE property from \$5,327 to \$6,450 that was made in 2005 as a result of the 2005 state-mandated reappraisal and subsequent decrease in the local jurisdictions' certified tax rates.

Staff recommends adoption of the resolution.

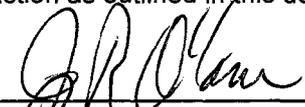


Amy S. Fitzgerald

Attachments

City Manager's Comments:

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



James R. O'Connor

12/30/08
Date

NUMBER _____

RESOLUTION

WHEREAS, the City of Oak Ridge has requested that the U.S. Department of Energy (DOE) render financial assistance in the form of a payment in lieu of taxes on real property acquired for nuclear and other energy purposes; and

WHEREAS, the DOE has agreed to aid the City of Oak Ridge by making a payment in lieu of taxes in the amount of the ad valorem tax revenue loss for the tax year 2008, which the City of Oak Ridge has suffered by virtue of removal of said real property from taxable ownership, provided the City will accept such payment in release of tax claims, if any, it may have against DOE or its contractors engaged in the performance of functions of DOE in the City of Oak Ridge; and

WHEREAS, the City of Oak Ridge is authorized by state law to accept financial assistance from federal agencies and to make agreements and execute instruments containing such terms and conditions as may be necessary for the purpose of obtaining such financial assistance; and

WHEREAS, the City Manager recommends approval of the attached amended agreement with DOE for payment in lieu of taxes.

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 amendment, designated as Amendment No. 10 to AGREEMENT PILT-OAK RIDGE-002, between the U.S. Department of Energy and the City of Oak Ridge for payment in lieu of taxes for tax year 2008 in the sum of \$1,476,023.48 in full satisfaction and release of any claims against DOE and its contractors based on or measured by the value of federal property utilized by such contractors in the performance of activities of DOE in the City of Oak Ridge, provided that the acceptance of this payment shall not operate in any manner in prejudice of the City of Oak Ridge's eligibility for payment in lieu of taxes based on the benefits and burdens test prescribed in Section 168 of the Atomic Energy Act; and further provided that the acceptance of this payment shall not operate in any manner in prejudice of the City of Oak Ridge's eligibility for annual assistance payments under § 91 of the Atomic Energy Communities Act of 1955, is hereby approved.

BE IT FURTHER RESOLVED, that the City Manager or Mayor is hereby authorized to execute the appropriate legal documents to accomplish the same.

This the 12th day of January 2009.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk

AGREEMENT PILT-OAKRIDGE-002
CITY OF OAK RIDGE, TENNESSEE

AMENDMENT NO. 10 TO AGREEMENT

This Amendment to Agreement PILT-OAKRIDGE-002 is made and entered into this _____ day of _____, 2009, by and between the UNITED STATES OF AMERICA DEPARTMENT OF ENERGY (DOE), and CITY OF OAK RIDGE, State of Tennessee.

The following revisions are made to the cited Agreement and are applicable to the payment-in-lieu-of-taxes for tax year 2008:

1. The tax year is changed to reflect "2008."
2. Item II.a. of the Agreement is revised to reflect that the payment-in-lieu-of-tax amount for tax year 2008 is \$1,476,023.48 as reflected in Exhibit No. 1 to this Amendment.

Payment of funds by DOE in lieu of property taxes constitutes financial assistance within the meaning of 10 CFR Part 1040; therefore, the City of Oak Ridge must comply with such regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 10 to Agreement PILT-OAKRIDGE-002 on the day and year first above written.

CITY OF OAK RIDGE, TENNESSEE

U.S. DEPARTMENT OF
ENERGY

BY: _____
Thomas L. Beehan

BY: _____
Cindy B. Finn

TITLE: Mayor

TITLE: DOE ORO Realty Officer

DATE: _____

DATE: _____

AMENDMENT NO. 10 TO
AGREEMENT PILT-OAKRIDGE-002
CITY OF OAK RIDGE, TENNESSEE

EXHIBIT NO. 1

PAYMENT IN LIEU OF TAXES FOR TAX YEAR 2008

The following computations are based on the Department of Energy Headquarters approval to make PILT payment on a revised per-acre-valuation based on availability of funds. Accordingly, the value of \$6,450 is applied pursuant to previously approved valuations.

1. A full assessment of \$53,286,046.13 for 33,045.61 acres of farm property in the City of Oak Ridge classified as farm or agriculture property (assessed at 25% rate) is equivalent to a value of \$6,450 per acre (33,045.61 acres x \$6,450 value per acre = \$213,144,184.50 appraised value x 25% agriculture assessment = \$53,286,046.13 land value).
2. Application of the City of Oak Ridge tax rate for tax year 2008 of \$2.77 per \$100.00 of assessed valuation to \$53,286,046.13 yields a tax payment of \$1,476,023.48 for tax year 2008.

MAYOR'S MEMORANDUM
08-10

DATE: December 31, 2008

TO: Fellow Members of City Council

FROM: Mayor Thomas L. Beehan

SUBJECT: RENEWAL OF PSA's WITH THE FERGUSON GROUP AND
BILL NOLAN AND ASSOCIATES

Attached are resolutions providing for the renewal of the professional services agreements with The Ferguson Group on the federal level and Bill Nolan and Associates on the state level for a period of six months.

As mentioned earlier under Special Reports, the Council's Intergovernmental Relations Special Committee recommends the adoption of both resolutions as presented.



Mayor

Attachments

RESOLUTION

WHEREAS, by Resolution Number 12-116-07, City Council approved a Professional Services Agreement with The Ferguson Group, LLC, Washington, D.C., in the estimated amount of \$102,000.00 to provide consulting services to develop a comprehensive federal government relations agenda and action plan to secure federal appropriations for agreed upon priorities for the City; and

WHEREAS, this agreement expired on December 31, 2008; and

WHEREAS, City Council's Intergovernmental Relations Special Committee (the Committee) met on December 17, 2008, and determined that there continues to be a need for such professional consulting services; and

WHEREAS, the Committee recommends that the current Professional Services Agreement with The Ferguson Group be extended for an additional six (6) months at the same monthly rate; and

WHEREAS, the City Manager concurs in the recommendation of the Committee.

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

That the recommendations of City Council's Intergovernmental Relations Special Committee and the City Manager are approved and the Professional Services Agreement between the City of Oak Ridge and The Ferguson Group, LLC, approved by Resolution 12-116-07, for the provision of consulting services to develop a comprehensive federal government relations agenda and action plan to secure federal appropriations for agreed upon priorities for the City, is hereby extended for an additional six (6) months under the same terms and conditions in the estimated amount of \$51,000.00.

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

This the 12th of January 2009.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk

RESOLUTION

WHEREAS, by Resolution 12-117-07, City Council approved a Professional Services Agreement with Bill Nolan and Associates, Oak Ridge, in the estimated amount of \$55,800.00 to provide consulting services in the area of relations with the Tennessee General Assembly and the Executive Branch of the State of Tennessee for agreed upon priorities for the City; and

WHEREAS, this agreement expired on December 31, 2008; and

WHEREAS, City Council's Intergovernmental Relations Special Committee (the Committee) met on December 17, 2008, and determined that there continues to be a need for such professional consulting services; and

WHEREAS, the Committee recommends that the current Professional Services Agreement with The Ferguson Group be extended for an additional six (6) months at the same monthly rate; and

WHEREAS, the City Manager concurs in the recommendation of the Committee.

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

That the recommendations of City Council's Intergovernmental Relations Special Committee and the City Manager are approved and the Professional Services Agreement between the City of Oak Ridge and Bill Nolan and Associates, approved by Resolution 12-117-07, for the provision of consulting services in the area of relations with the Tennessee General Assembly and the Executive Branch of the State of Tennessee for agreed upon priorities for the City, is hereby extended for an additional six (6) months under the same terms and conditions in the estimated amount \$27,900.00.

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

This the 12th of January 2009.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

City Clerk

ELECTIONS

**ANDERSON COUNTY
COMMUNITY ACTION
COMMISSION**

R. Boyd Carter
118 Wendover Circle
Oak Ridge, TN 37830
Phone: 865-481-0162 Fax: 865-483-5562
e-mail: Rboydrbc@aol.com

RECEIVED
2008 SEP 17 PM 3: 30
OFFICE OF THE CITY CLERK

RESUME

General Information

Date of Birth: June 15, 1940
Place of Birth: St. Louis, Missouri
Full Name: Richard Boyd Carter

Professional Experience

Minister October 1984 thru May 2008
The United Church, the Chapel on the Hill 85 Kentucky Avenue, Oak Ridge, TN 37830

Marriage and Family Counselor
Private Practice 1979 to May 2008

Adjunct Professor 1994-1996
Graduate Program, the School of Theology Drew University

Interim Senior Minister 1983 to 1984
Plymouth Congregational Church Wichita, Kansas

Senior Minister 1979 to 1983
First Congregational Church Terre Haute, Indiana

Senior Minister 1976 to 1979
Plymouth Congregational Church Racine, Wisconsin

Associate Minister 1973 to 1976
Mayflower Congregational Church Grand Rapids, Michigan

Various appointments with the United Methodist Church

Educational Experience

Post Graduate 1990 to 1996
The Family Center Bethesda, Maryland
Area of study: Family Systems/Leadership and the Local Congregation
(This program ended in 1996 with the sudden death of the leader, Dr. Edwin H. Friedman)

D. Min. 1991
Drew University, School of Theology Madison, New Jersey
Area of study: Family System—The Congregation as Family

Educational Experience (cont'd)

M. Div. Eden Theological Seminary	1967 Webster Groves, Missouri
B. A. McKendree College	1963 Lebanon, Illinois
Collinsville High School Collinsville, Illinois	1958

Activities Outside the Church

Various Ministerial Groups
 Rotary Clubs
 Chamber of Commerce (various committees)
 President, Oak Ridge Community Foundation
 Board of Directors of S.A.F.T. (Symposium for the Advance of Family Therapy)
 Knoxville, Tennessee
 Consultant to troubled local churches and to Denominational Hierarchies
 Board of Directors, Anderson County Good Will

Professional Relationships

American Counseling Association
 Diplomat, American Psychotherapy Association
 Licensed Marriage and Family Counselor, State of Tennessee

Family Information

Spouse: Susan Carter, MSSW, LCSW, DCSW
 Specialization: Licensed Clinical Social Worker in Private Practice

Children: Amy, married, one child, Seattle, Washington
 Betsy, married, one child, Boulder, Colorado
 Richard, married, two children and five step-children, Fishers, Indiana

Health: Susan and Boyd—Excellent Health

Hobbies

Boating, cooking, reading, and jazz collection

**NOTICE
OF
ELECTIONS**

CITY CLERK MEMORANDUM
08-70

DATE: December 31, 2008

TO: Honorable Mayor and Members of City Council

FROM: Jacquelyn J. Bernard, City Clerk

SUBJECT: ELECTIONS – February 9, 2008

The following elections are scheduled for the February 9, 2008 City Council meeting:

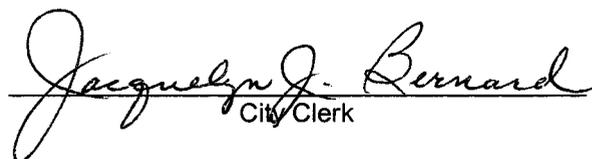
Health and Educational Facilities Board

There are three (3) vacancies on the Health and Educational Facilities Board. There are no special qualifications for these seats and as of this date, there are no candidates. These terms end on June 6, 2009, June 6, 2011 and June 6, 2013.

Oak Ridge Municipal Planning Commission

On February 12, 2009, two seats on the Oak Ridge Municipal Planning Commission will become vacant. Those are the seats currently occupied by Ms. Suzanne Koehler and Ms. Claudia Lever. Letters have been sent to both to determine their willingness to serve again if the Council so desires. There are no new candidates as of this date, but the open seats were only posted today. There are no special qualifications for these seats and the term of office is four years.

Deadline for Filing: The deadline for filing is 5:00 p.m. on Tuesday, January 27, 2009.


City Clerk

CITY COUNCIL MEMORANDUM
08-55

DATE: December 30, 2008

TO: Honorable Mayor and Members of City Council

FROM: James R. O'Connor, City Manager

SUBJECT: UPCOMING MEETINGS/MAJOR ISSUES

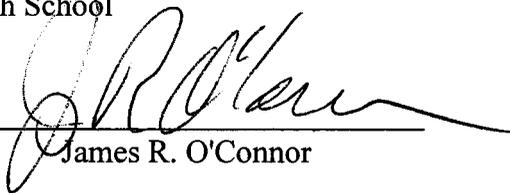
Monday, January 26, 2009, 6:30 p.m. – Work Session, Multipurpose Room, Central Services Complex

- Code of Ethics

Monday, February 2, 2009, 6:30 p.m. – Agenda Review Session, Multipurpose Room, Central Services Complex

Monday, February 9, 2009, 7:00 p.m. – Regular Meeting

- Public Hearing and First Reading – Roane County FIRM Maps
- Sewer Point Repair Contract
- Arts Council Contract
- Large Sewer Interceptor
- Bond Resolution – Completion of High School



James R. O'Connor