

TITLE 20

MISCELLANEOUS

CHAPTER

1. SMOKING REGULATIONS.
2. FAIR HOUSING.
3. PARKS AND RECREATION CODE OF CONDUCT.

CHAPTER 1

SMOKING REGULATIONS

SECTION

- 20-101. Smoking prohibited inside city hall.
20-102. "To smoke" defined.

20-101. Smoking prohibited inside city hall. It shall be and is a prohibited act for any person, including any employees of the city, to smoke any place at anytime inside the McKenzie City Hall. (1995 Code, § 20-101)

20-102. "To smoke" defined. For purpose of this chapter "to smoke" means and includes carrying or having in possession or control a lighted cigarette, cigarillo, cigar, pipe or any similar product or device by whatever name it is known. (1995 Code, § 20-102)

CHAPTER 2

FAIR HOUSING

SECTION

- 20-201. Policy.
- 20-202. Definitions.
- 20-203. Unlawful practice.
- 20-204. Discrimination in the sale or rental of housing.
- 20-205. Discrimination in the financing of housing.
- 20-206. Discrimination in the provision of brokerage services.
- 20-207. Exemption.
- 20-208. Administration.
- 20-209. Education and conciliation.
- 20-210. Enforcement.
- 20-211. Investigations; subpoenas; giving of evidence.
- 20-212. Enforcement by private persons.

20-201. Policy. It is the policy of the City of McKenzie, Tennessee to provide, within constitutional limitations, for fair housing throughout the community. (1995 Code, § 20-501)

20-202. Definitions. (1) "Discriminatory housing practice" means an act that is unlawful under §§ 20-204, 20-205, or 20-206.

(2) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(3) "Family" includes a single individual.

(4) "Person" includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and judiciaries.

(5) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (1995 Code, § 20-402)

20-203. Unlawful practice. Subject to the provisions of subsection (2) and § 20-207, the prohibitions against discrimination in the sale or rental of housing set forth in § 20-204 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in § 20-204 shall apply to:

(a) Any single-family house sold or rented by an owner:

(i) Provided that such private individual owner does not own more than three (3) such single-family houses at any one time.

(ii) Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period.

(iii) Provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one time.

(iv) Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented:

(A) Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and

(B) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-204(3) of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his residence.

(3) For the purposes of subsection (2), persons shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families. (1995 Code, § 20-503)

20-204. Discrimination in the sale or rental of housing. As made applicable by § 20-403 and except as exempted by §§ 20-203(2) and 20-207, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or disability.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status or disability.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status or disability, or an intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or disability that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status or disability.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (1995 Code, § 20-504)

20-205. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of

the race, color, religion, sex, national origin, familial status or disability of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; provided, that nothing contained in the section shall impair the scope or effectiveness of the exception contained in § 20-203(2). (1995 Code, § 20-505)

20-206. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or disability. (1995 Code, § 20-506)

20-207. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status or disability. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (1995 Code, § 20-507)

20-208. Administration. (1) The authority and responsibility for administering this act shall be in the Mayor of the City of McKenzie, Tennessee.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the community, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the mayor to further such purposes. (1995 Code, § 20-508)

20-209. Education and conciliation. Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory activities as will further the purposes of this chapter. They shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advise to work out programs of voluntary compliance and of enforcement. (1995 Code, § 20-509)

20-210. Enforcement. (1) Any persons who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (3), the mayor shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the mayor decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by information methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the mayor who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against them and with the leave of the mayor, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(3) If within thirty (30) days after a complaint is filed with the mayor, the mayor has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor will assist in this filing.

(4) If the mayor has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty (30) days hereafter commence a civil action in any appropriate court, against the

respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complaint.

(6) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance. (1995 Code, § 20-510)

20-211. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation, the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: provided, however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court of the district in which the investigation is taking place. The mayor may administer oaths.

(2) Upon written application to the mayor, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor to the same extent and subject to the same limitations as subpoenas issued by the mayor himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the mayor shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by them.

(4) Within five (5) days after service of a subpoena upon any person, such person may petition the mayor to revoke or modify the subpoena. The mayor shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or other person at whose request it was issued may petition for its enforcement in

the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the mayor shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the mayor pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both.

(7) The City of McKenzie, Tennessee's attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. (1995 Code, § 20-511)

20-212. Enforcement by private persons. (1) The rights granted by §§ 20-203, 20-204, 20-205, and 20-206 may be enforced by civil actions in state or local courts or general jurisdiction. A civil action shall be commenced within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought to this section or § 20-210(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion, sex, national origin, familial status or disability, in any of the activities, services, organizations or facilities; or

(b) Affording another person or class of persons opportunity or protection so to participate, or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, or national origin, familial status or disability in any of the activities, services, organizations or facilities, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than one thousand dollars (\$1,000.00), or imprisoned not more than one (1) year, or both; and, if bodily injury results, shall be fined not more than ten thousand dollars (\$10,000.00), or imprisoned not more than ten (10) years, or both; and, if death results, shall be subject to imprisonment for any term of years or for life. (1995 Code, § 20-512)

CHAPTER 3

PARKS AND RECREATION CODE OF CONDUCT

SECTION

20-301. Code of conduct.

20-301. Code of conduct. Any individual or individuals causing disturbance or inappropriate conduct at a city of McKenzie event or grounds under the jurisdiction of the parks and recreation department will be asked to leave the venue immediately by authorized individual(s). Local authorities will be called if offender(s) do not comply. The alleged offender(s) will not be allowed back at any McKenzie City Parks and Recreation venue/event for a minimum of seven (7) days from the time of the incident, after reviewed at called parks and recreation advisory board meeting, if alleged offender(s) were deemed to have been in violation of the city's conduct policy. At the called meeting, the alleged offender(s) may be present, as well as any witnesses that were involved or give testimony in the matter. After hearing from any/all parties involved, the parks and recreation advisory board will vote on the specific incident and rule in favor of or against the seven (7) day suspension.

(2) A second conduct infraction of individual(s) at any City of McKenzie Parks and Recreation venue/event will warrant a one (1) year suspension within a calendar year, if deemed in violation of the city conduct policy and voted on by the McKenzie Parks and Recreation Advisory Board Members at the next specially called meeting, including alleged offender(s) and any witnesses involved giving testimony in the matter. These advisory board conduct meetings should be called by parks and recreation advisory board chairman, or designee, at the quickest available date after incidents occur.

(3) Any individual(s) involved in physically threatening, abusive, or potentially harmful behavior at the City of McKenzie event or property under the jurisdiction of the city parks and recreation department (including unusual disturbance), will be asked to leave the property or venue immediately by authorized individual(s). Local authorities will be called if the offender(s) do not comply. The alleged offender(s) will not be allowed back at any McKenzie City Parks and Recreation venue/event for one (1) calendar year from the time of incident, after reviewed at called parks and recreation advisory board meeting. The alleged offender(s) may be present at the called meeting, as well as any witnesses that were present or involved th at give testimony in the matter. After hearing from any/all parties involved, the parks and recreation advisory board will vote on the specific incident and rule in favor of or against the one (1) year ban or suspension. Any individual(s) banned or suspended for a one (1) year period may not enter the property or grounds or be involved in any parks and recreation sporting leagues or events under the city's jurisdiction for the following calendar year, unless voted on and approved by the McKenzie City and

Parks Recreation Advisory Board. Any one (1) year ban of any individual(s) by the parks and recreation advisory board will leave the board members with options to suspend or ban any individual from being involved with or being present at McKenzie Parks and Recreation events for multiple calendar years, depending upon the nature of the suspension. This means any individual(s) could have suspensions from the parks and recreation grounds and facilities for multiple years, to be addressed by the board at the time the suspension period ends.

(4) Authorized individual(s) qualified to take immediate action in asking alleged offenders to leave McKenzie Parks and Recreation Grounds would include, but not limited to; umpires, referees, officials, city league officers, McKenzie Parks and Recreation staff. Local law authorities will be called immediately if alleged conduct offenders do not comply. Any alleged offender(s) that do not leave the McKenzie City Parks and Recreation property or events, after asked to do so by qualified persons regarding the conduct policy, will be banned for one (1) calendar year from the time of incident. After the McKenzie City Parks and Recreation and Advisory Board Members vote on the specific incident involving alleged offender(s) not complying with this request to leave property, Local authorities are to be contacted and the advisory board members have the option to ban or suspend offender(s) for the following calendar year as well.

(5) Any and all bans voted on by the McKenzie Parks and Recreation Advisory Board will result in the City of McKenzie Parks and Recreation Director sending ban letters to suspended individual(s). These ban letters are also shared with the McKenzie Police Department.

(6) Any individual McKenzie City Leagues will have the authority to extend the length of suspension based upon their by-laws, but may not lessen duration of the suspension. Any banned or suspended individual(s) recommended by the city parks and recreation advisory board will leave the final decision to the parks and recreation director.

(7) No person shall in any manner use any of the playground apparatus or devices for other than their intended purpose or misuse any playground apparatus, which is by size and shape meant exclusively for the use of children. It is unlawful for any person over age twelve (12), and anyone over five feet (5') in height to use any public playground equipment within the city, unless it is specifically designed as adult fitness equipment.

(8) Blatant disregard posted signs within the park concerning "No Dogs Allowed" and "No Smoking" within one hundred feet (100') of the ballfields can result in the police escorting patrons from the park and issuing a citation.

(9) State law will mandate on the "glove compartment rule" of guns on public property. (as added by Ord. #510, July 2017 *Ch1_02-11-21*, and amended by Ord. #528, June 2019 *Ch1_02-11-21*)