

**THE  
McEWEN  
MUNICIPAL  
CODE**

Prepared by the

**MUNICIPAL TECHNICAL ADVISORY SERVICE  
INSTITUTE FOR PUBLIC SERVICE  
THE UNIVERSITY OF TENNESSEE**

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

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*Change 6*  
*June 13, 2023*

**CITY OF McEWEN, TENNESSEE**

**MAYOR**

Brad Rachford

**VICE MAYOR**

John Ethridge

**ALDERMEN**

Basel Hooper

Heather Leegan

Kim Moultrie

Dwayne Ross

**RECORDER**

Vickie Ethridge

## PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such

ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Sandy Selvage, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini  
Codification Specialist

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

Section 7(a). Any Bill, Ordinance, or Resolution shall only be required to be read, considered and adopted on one (1) reading and notwithstanding any other provisions to the contrary any such Bill, Resolution or Ordinance may be finally adopted on such reading when it shall have received an affirmative vote of not less than three (3) Aldermen or if the Aldermen be evenly divided the vote of two (2) Aldermen and the Mayor in the event of tie. A pass vote by any Alderman shall be considered a negative vote on the proposition thus being made.

(b) Any Bill, Ordinance or Resolution that has been introduced may be finally adopted on the same day and at the same meeting at which it shall have been introduced.

(c) Any Bill, Resolution or Ordinance finally adopted by the Board of Mayor and Aldermen before the same shall become effective shall be signed by the Mayor who shall either approve or disapprove the same within five (5) days, after the final action of the Board of Mayor and Aldermen. If the Mayor shall withhold approval or disapproval for more than such five (5) days, exclusive of Sundays and holidays, the Bill, Resolution or Ordinance shall become effective without the signature of the Mayor. In the event the Mayor shall return the Bill, Resolution or Ordinance disapproved then the Mayor shall state the reasons for such veto or disapproval. The Board of Aldermen may then consider such vetoed or disapproved Bill, Resolution, or Ordinance at its next regular or special meeting and may adopt such Bill, Resolution or Ordinance notwithstanding the veto of the Mayor provided the measure shall received at least four (4) affirmative votes of the Aldermen.

(d) No Bill, Resolution or Ordinance shall again be considered at the same or any adjourned meeting at which the same shall have been rejected.

(e) Upon all votes for the adoption or rejection of all Bills, Resolutions or Ordinances the vote shall be taken by ayes and nays and the names of those members of the Board of Mayor and Aldermen voting for and against the same shall be entered upon the minutes of the meeting.

(f) All Bills and Ordinances of the City of McEwen, Tennessee shall begin with the following enacting clause: "Be it enacted and ordained by the Board of Mayor and Aldermen of the City of McEwen, Tennessee" and all Resolutions shall begin with the following resolving clause: "Be it resolved by the Board of Mayor and Aldermen of the City of McEwen, Tennessee" and all such Bills, Ordinances, and Resolutions shall take effect from and after thirty (30) days from the date of their respective passages unless the Board of Mayor and Aldermen shall in such Bill, Ordinance or Resolution determine that the same shall take effect sooner.

*Change 6  
June 13, 2023*

## **TABLE OF CONTENTS**

**PAGE**

### **INTRODUCTION**

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

### **CHARTER**

<b>CHARTER TABLE OF CONTENTS</b> .....	C-1
<b>TEXT OF CHARTER</b> .....	C-3

### **CODE OF ORDINANCES**

<b>CODE-ADOPTING ORDINANCE</b> .....	ORD-1
<b>SUPPLEMENTAL ADOPTING ORDINANCE</b> .....	SUPP-1
<b>TITLE 1. GENERAL ADMINISTRATION</b> .....	1-1
<b>CHAPTER</b>	
1. BOARD OF MAYOR AND ALDERMEN .....	1-1
2. MAYOR.....	1-3
3. RECORDER.....	1-5
4. CODE OF ETHICS .....	1-6
<b>TITLE 2. BOARDS AND COMMISSIONS, ETC.</b> .....	2-1
1. PARKS AND RECREATION COMMISSION .....	2-1
<b>TITLE 3. MUNICIPAL COURT</b> .....	3-1
<b>CHAPTER</b>	
1. CITY JUDGE.....	3-1
2. COURT ADMINISTRATION .....	3-2
3. WARRANTS, SUMMONSES AND SUBPOENAS....	3-4
4. BONDS AND APPEALS .....	3-5

	<u>PAGE</u>
<b>TITLE 4. MUNICIPAL PERSONNEL . . . . .</b>	<b>4-1</b>
<b>CHAPTER</b>	
1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES . . . . .	4-1
2. VACATION AND SICK LEAVE . . . . .	4-3
3. MISCELLANEOUS PERSONNEL REGULATIONS. . . . .	4-5
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM . . . . .	4-7
5. DEFERRED COMPENSATION AND RETIREMENT PLAN . . . . .	4-10
6. SEXUAL HARASSMENT . . . . .	4-17
7. INTERNAL PERSONNEL POLICIES . . . . .	4-20
8. DRUG AND ALCOHOL TESTING . . . . .	4-25
<b>TITLE 5. MUNICIPAL FINANCE AND TAXATION . . . . .</b>	<b>5-1</b>
<b>CHAPTER</b>	
1. PRIVILEGE TAXES . . . . .	5-1
2. WHOLESALE BEER TAX . . . . .	5-3
3. PURCHASING . . . . .	5-4
4. DEBT MANAGEMENT POLICY . . . . .	5-5
5. PURCHASING AND SALE OF PERSONAL PROPERTY CODE . . . . .	5-11
6. REAL AND PERSONAL PROPERTY TAX . . . . .	5-17
<b>TITLE 6. LAW ENFORCEMENT . . . . .</b>	<b>6-1</b>
<b>CHAPTER</b>	
1. POLICE AND ARREST . . . . .	6-1
2. WORKHOUSE . . . . .	6-3
<b>TITLE 7. FIRE PROTECTION AND FIREWORKS . . . . .</b>	<b>7-1</b>
<b>CHAPTER</b>	
1. FIRE DISTRICT . . . . .	7-1
2. FIRE CODE . . . . .	7-2
3. FIRE DEPARTMENT . . . . .	7-4
4. FIRE SERVICE OUTSIDE CITY LIMITS . . . . .	7-6
<b>TITLE 8. ALCOHOLIC BEVERAGES . . . . .</b>	<b>8-1</b>
<b>CHAPTER</b>	
1. INTOXICATING LIQUORS . . . . .	8-1
2. BEER . . . . .	8-2

	<u>PAGE</u>
<b>TITLE 9. BUSINESS, PEDDLERS, SOLICITORS, ETC.....</b>	9-1
<b>CHAPTER</b>	
1. MISCELLANEOUS .....	9-1
2. PEDDLERS, ETC. ....	9-2
3. CHARITABLE SOLICITORS .....	9-6
4. TAXICABS .....	9-7
5. POOL ROOMS .....	9-11
6. CABLE TELEVISION .....	9-13
7. CITY OF McEWEN CABLE TELEVISION CODE OF 1982 .....	9-14
8. TELECOMMUNICATIONS REGULATIONS .....	9-27
9. MOBILE FOOD VENDORS .....	9-35
<b>TITLE 10. ANIMAL CONTROL .....</b>	10-1
<b>CHAPTER</b>	
1. IN GENERAL. ....	10-1
2. DOGS .....	10-3
<b>TITLE 11. MUNICIPAL OFFENSES .....</b>	11-1
<b>CHAPTER</b>	
1. ALCOHOL .....	11-1
2. FORTUNE TELLING, ETC. ....	11-3
3. OFFENSES AGAINST THE PERSON .....	11-4
4. OFFENSES AGAINST THE PEACE AND QUIET .....	11-5
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL .....	11-8
6. FIREARMS, WEAPONS AND MISSILES .....	11-9
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC .....	11-10
8. MISCELLANEOUS .....	11-11
9. MISDEMEANORS OF THE STATE ADOPTED ...	11-13
<b>TITLE 12. BUILDING, UTILITY, ETC. CODES .....</b>	12-1
<b>CHAPTER</b>	
1. ICC CODES .....	12-1
2.-11. DELETED	

	<u>PAGE</u>
<b>TITLE 13. PROPERTY MAINTENANCE REGULATIONS . . . . .</b>	13-1
<b>CHAPTER</b>	
1. MISCELLANEOUS . . . . .	13-1
2. JUNKYARDS . . . . .	13-5
3. JUNKED AND INOPERABLE MOTOR VEHICLES . . . . .	13-6
4. SLUM CLEARANCE . . . . .	13-7
<b>TITLE 14. ZONING AND LAND USE CONTROL . . . . .</b>	14-1
<b>CHAPTER</b>	
1. MUNICIPAL PLANNING COMMISSION . . . . .	14-1
2. ZONING ORDINANCE . . . . .	14-3
3. FLOOD DAMAGE PREVENTION ORDINANCE . . . . .	14-4
4. MOBILE HOME COURTS AND TRAVEL TRAILER COURTS . . . . .	14-5
<b>TITLE 15. MOTOR VEHICLES, TRAFFIC AND PARKING . . . . .</b>	15-1
<b>CHAPTER</b>	
1. MISCELLANEOUS . . . . .	15-1
2. EMERGENCY VEHICLES . . . . .	15-8
3. SPEED LIMITS . . . . .	15-10
4. TURNING MOVEMENTS . . . . .	15-11
5. STOPPING AND YIELDING . . . . .	15-12
6. PARKING . . . . .	15-15
7. ENFORCEMENT . . . . .	15-18
<b>TITLE 16. STREETS AND SIDEWALKS, ETC. . . . .</b>	16-1
<b>CHAPTER</b>	
1. MISCELLANEOUS . . . . .	16-1
2. EXCAVATIONS AND CUTS . . . . .	16-4
3. MAINTENANCE OF STREETS AND ROADS BY CITY . . . . .	16-8
<b>TITLE 17. REFUSE AND TRASH DISPOSAL . . . . .</b>	17-1
<b>CHAPTER</b>	
1. REFUSE . . . . .	17-1

	<u>PAGE</u>
<b>TITLE 18. WATER AND SEWERS .....</b>	<b>18-1</b>
<b>CHAPTER</b>	
1. WATERWORKS AND SEWAGE SYSTEMS .....	18-1
2. WATER AND SEWER SERVICE .....	18-2
3. GENERAL WASTEWATER REGULATIONS .....	18-14
4. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS .....	18-38
5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC .....	18-65
<b>TITLE 19. ELECTRICITY AND GAS .....</b>	<b>19-1</b>
<b>CHAPTER</b>	
1. GAS .....	19-1
<b>TITLE 20. MISCELLANEOUS .....</b>	<b>20-1</b>
<b>CHAPTER</b>	
1. LOCAL GOVERNMENT EMERGENCY ASSISTANCE POLICIES .....	20-1
<b>CERTIFICATE OF AUTHENTICITY .....</b>	<b>CERT-1</b>

**TITLE 1**

**GENERAL ADMINISTRATION<sup>1</sup>**

**CHAPTER**

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.

**CHAPTER 1**

**BOARD OF MAYOR AND ALDERMEN<sup>2</sup>**

**SECTION**

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.

**1-101. Time and place of regular meetings.** The board of mayor and aldermen shall hold regular monthly meetings at such time at the city hall as shall be provided from time to time by resolutions of the board. (1970 Code, § 1-101)

**1-102. Order of business.** At each meeting of the board of mayor and

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<sup>1</sup>Charter references

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

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.  
Fire department: title 7.  
Utilities: titles 18 and 19.  
Wastewater treatment: title 18.  
Zoning: title 14.

<sup>2</sup>Charter references

Compensation: § 30.  
Eligibility: § 4.  
Oath: § 4.  
Powers: § 5.  
Terms of office: § 3.

aldermen the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the governing body and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1970 Code, § 1-102)

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1970 Code, § 1-103, modified)

## CHAPTER 2

### MAYOR<sup>3</sup>

#### SECTION

1-201. Generally supervises municipality's affairs.

1-202. Authority with respect to civil emergencies.

**1-201. Generally supervises municipality's affairs.** The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1970 Code, § 1-201)

**1-202. Authority with respect to civil emergencies.** (1) A "civil emergency" is:

(a) A riot or unlawful assembly characterized by the use of actual force or violence or a threat to use force if accompanied by the immediate power to execute by three (3) or more persons acting together without authority of law; or

(b) Any natural disaster or man-made calamity including, but not limited to, flood, conflagration, cyclone, tornado, earthquake or explosion, within the geographic limits of the City of McEwen or in such close proximity thereto which may result in death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the health, safety and welfare of the citizens; or

(c) The destruction of property or the death or injury of persons brought about by the deliberate acts of one (1) or more persons acting either alone or in concert with others when such acts are a threat to the peace of the general public or any segment thereof.

(2) A "curfew" is a prohibition against any person from walking, running, loitering, standing or motoring on any alley, street, highway, public property or vacant premises within the corporate limits of the city except a person officially designated to duty with reference to a civil emergency or who is lawfully on the streets as hereinafter provided.

(3) When in the judgment of the mayor a civil emergency exists he

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<sup>3</sup>Charter references

Compensation: § 25.

Duties: §§ 9 and 25.

Eligibility: § 4.

Oath: §§ 4 and 25.

Term of office: § 3.

Vacancy in office: § 4.

shall forthwith proclaim in writing the existence of the same and shall file a copy of his proclamation with the recorder.

(4) Following a proclamation of a civil emergency by the mayor he may order a general curfew applicable to such geographical areas of the city or to the city as a whole as he deems advisable and which general curfew shall be applicable during those hours of the day or night as the mayor deems necessary in the interest of the public safety and welfare. Such proclamation and general curfew shall have the force and effect of law and the force and effect of an ordinance of the city and the same shall continue in effect until rescinded in writing by the mayor, but in no event shall such period exceed fifteen (15) days.

(5) After a proclamation of a civil emergency has been made, the mayor may, at his discretion and in the interest of the public safety and welfare:

(a) Order the closing of all establishments wherein beer or other alcoholic beverages are sold or served.

(b) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer or other alcoholic beverages is permitted.

(c) Order the discontinuance of the sale of beer.

(d) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible product in any container other than a gasoline tank properly affixed to a motor vehicle.

(e) Order the closing of gasoline stations and other establishments where the chief activity or business of which is the sale, distribution or dispensing of flammable liquids or combustible products.

(f) Order the discontinuance of selling, distributing, dispensing or giving away of firearms or ammunition of any character whatsoever.

(g) Order the closing of any or all establishments or portions thereof where the chief activity or purpose of the same is the sale, distribution, dispensing or giving away of firearms and/or ammunition.

(h) Order such other measures or prohibitions as reasonably necessary for the protection of life and property.

(6) No curfew ordered by the mayor shall apply to persons who are lawfully on the streets and public places during a civil emergency who have permission of the mayor or of chief of police on good cause shown, nor shall a curfew apply to any medical personnel in the performance of their duties.

(7) It is declared to be a misdemeanor against the city for any person, firm or corporation to violate any of the provisions of this section or of any orders issued by the mayor pursuant hereto or pursuant to state law authorizing the issuance of such orders and upon conviction therefor shall be punished by fine of \$50 and shall pay the costs of the cause. Each separate act in violation shall be a separate offense. (1970 Code, § 1-202)

**CHAPTER 3****RECORDER**<sup>4</sup>**SECTION**

1-301. To keep minutes, etc.

1-302. To perform general administrative duties, etc.

**1-301. To keep minutes, etc.** The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1970 Code, § 1-301)

**1-302. To perform general administrative duties, etc.** The recorder shall perform all administrative duties for the board of mayor and aldermen and for the municipality which are not expressly assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1970 Code, § 1-302)

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<sup>4</sup>Charter references

Bond: § 10.

Compensation: § 23.

Duties: § 10.

## CHAPTER 4

### CODE OF ETHICS

#### SECTION

- 1-401. Applicability.
- 1-402. General.
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in nonvoting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

**1-401. Applicability.** This chapter establishes a code of ethics for full and part time elected and appointed officials and employees of City of McEwen (hereinafter referred to as the "municipality"), whether compensated or not, including those serving on separate boards, commissions, committees, authorities, corporations, and other instrumentalities appointed or created by the municipality. (as added by Ord. #244, May 2007)

**1-402. General.** For purposes of this chapter the following terms shall have the meanings assigned:

- (1) "Personal interest" shall be:
  - (a) Financial, ownership, or employment interest in the subject of a vote by a municipal official which is not otherwise regulated by state statutes relative to conflicts of interests; or
  - (b) Financial, ownership, or employment interest in a matter regulated or supervised by a municipal official or employee which is not otherwise regulated by state statutes relative to conflicts of interest; or
  - (c) Financial, ownership, or employment interest of a family member of a municipal official or employee.
- (2) A "family member" is a spouse, parent, stepparent, grandparent, sibling, child, or stepchild.
- (3) "Employment interest" includes situations in which a municipal official or employee or a family member is negotiating possible employment with a person or organization that is the subject of the vote of a municipal official or who will be regulated or supervised by a municipal official or employee.
- (4) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.

(5) Nothing herein shall be deemed to repeal or supercede of the provisions of chapter 3 of title 4 of McEwen Municipal Code regulating conflicts of interest of municipal officers and employees, but the provisions of this chapter shall be deemed to be in addition and supplementary thereto. (as added by Ord. #244, May 2007)

**1-403. Disclosure of personal interest by official with vote.** A municipal official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote is taken, so that it appears in the minutes, any personal interest that affects or would lead a reasonable person to infer that it affects the vote on the measure. The municipal official may recuse himself or herself from voting on the measure. (as added by Ord. #244, May 2007)

**1-404. Disclosure of personal interest in nonvoting matters.** A municipal official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of such discretion, before the exercise of the discretion, when possible, shall disclose his or her interest in writing which shall be filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter. (as added by Ord. #244, May 2007)

**1-405. Acceptance of gratuities, etc.** A municipal official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(1) For performing an act or refraining from performing an act expected or required to be performed in the regular course of his or her duties; or

(2) That might reasonably be interpreted as an attempt to influence his or her action or reward him or her for past action in executing municipal business. (as added by Ord. #244, May 2007)

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

(2) A municipal official or employee may not use nor disclose information obtained in his or her official capacity or position of employment with intent to result in financial gain for himself or herself or any other person or entity. (as added by Ord. #244, May 2007)

**1-407. Use of municipal time, facilities, etc.** (1) A municipal official or employee may not use nor authorize the use of municipal time, facilities, equipment or supplies for private gain or advantage to himself or herself or to a family member.

(2) A municipal official or employee may not use nor authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #244, May 2007)

**1-408. Use of position or authority.** (1) A municipal official or employee may not make nor attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) A municipal official or employee may not use nor attempt to use his or her position to secure any privilege or exemption for himself or herself or others which is not authorized by the charter, general law, ordinance or policy of the municipality. (as added by Ord. #244, May 2007)

**1-409. Outside employment.** A municipal official or employee may not accept nor continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of his or her municipal position or conflicts with any provision of the municipal charter, ordinance or policy. (as added by Ord. #244, May 2007)

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

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate credible complaints against appointed municipal officials and employees charging violation of this chapter, or undertake an investigation on his or her own initiative when information indicates a possible violation. The city attorney shall make recommendations for action to end or seek retribution for any activity which in his or her judgment constitutes a violation of this chapter.

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

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the governing body and the governing body determines the complaint has merit or sufficient appearance of merit to warrant further investigation, the governing body shall authorize and direct an investigation by the city attorney or by such

other individual or entity designated by the governing body.

(3) In interpreting and enforcing this chapter the standard shall be what a reasonable municipal official or employee would do in the same or similar circumstances.

(4) When a violation of this chapter also constitutes a violation of a personnel policy, rule, or regulation of the municipality, the violation shall be dealt with as a violation of such provisions in addition to a violation of this chapter. (as added by Ord. #244, May 2007)

**1-411. Violations.** An elected or appointed official or appointed member of a separate board, commission, committee, authority, corporation, or other instrumentality of the municipality who violates any provision of this chapter shall be punished as provided by the charter or other applicable law and in addition shall be subject to removal from office as provided by law and/or censure by the governing body. A municipal employee who violates any provision of this chapter is subject to disciplinary action as the governing body shall determine. (as added by Ord. #244, May 2007)

**TITLE 2****BOARDS AND COMMISSIONS, ETC.****CHAPTER****1. PARKS AND RECREATION COMMISSION.****CHAPTER 1****PARKS AND RECREATION COMMISSION****SECTION**

2-101. Created.

2-102. Meetings.

2-103. Members to elect chairman.

2-104. Duties, powers and authority.

**2-101. Created.** There is created and established a parks and recreation commission for the City of McEwen ("commission") to consist of five (5) members appointed by the mayor who shall serve at his or her pleasure and two (2) members who shall be aldermen of the city as designated by the board of mayor and alderman and who shall serve during the continuation of their incumbency in office as such. The mayor shall ex officio be a member of the commission with vote. Commissioners shall serve without compensation. (as added by Ord. #222, Sept. 2003)

**2-102. Meetings.** The commission shall meet at such times and places within or without the city as it shall determine. All meetings shall be open to the public. Reasonable public notice of the time and place of all meetings shall be given as provided by law. (as added by Ord. #222, Sept. 2003)

**2-103. Members to elect chairman.** The commission shall elect from among its members a chairman. Minutes of meetings of the commission shall be kept and shall be open for public inspection. (as added by Ord. #222, Sept. 2003)

**2-104. Duties, powers and authority.** Duties, powers and authority of the commission are as follows:

(1) To study the public parks and recreation programs of the municipality and make such recommendations concerning operation, development and expansion thereof deemed appropriate.

(2) To adopt and promulgate rules and regulations relative to the use and operation of the public parks and recreational facilities of the municipality. Upon adoption thereof such rules and regulations shall be transmitted to the

board of mayor and aldermen which may disapprove any such rule or regulation. upon disapproval such rule or regulation shall have no force or effect.

(3) To direct and oversee the use and expenditure of all funds provided and appropriated by the board of mayor and aldermen for the public parks and recreation program of the municipality.

(4) To lay before the board of mayor and aldermen not less often than quarterly a report of the activities and actions taken or ordered by the commission. (as added by Ord. #222, Sept. 2003)

**TITLE 3**

**MUNICIPAL COURT<sup>1</sup>**

**CHAPTER**

1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. WARRANTS, SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.

**CHAPTER 1**

**CITY JUDGE**

**SECTION**

3-101. City judge.

**3-101. City judge.** The officer designated by the charter to handle judicial matters within the municipality shall preside over the city court, and shall be known as the city judge. (1970 Code, § 1-501)

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<sup>1</sup>Charter reference: § 12.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

3-201. Maintenance of docket.

3-202. Imposition of fines, penalties, and costs.

3-203. Disposition and report of fines, penalties, and costs.

3-204. Disturbance of proceedings.

3-205. Trial and disposition of cases.

**3-201. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1970 Code, § 1-502)

**3-202. Imposition of fines, penalties, and costs.** All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court.

In all cases heard and determined in the city court the city judge shall tax in the bill of costs and assess in addition to fines or penalties that are levied, adjudged and ordered to be paid by the defendant, all those applicable litigation taxes, fees and assessments which are otherwise imposed by law in such cases, and in addition in all cases there shall be assessed and ordered to be paid by the defendant convicted the sum of one hundred sixty dollars (\$160.00) as a fee to defray the cost of administration of the court payable as revenue to the city. All fines, penalties, litigation taxes, fees and assessments, when collected, shall be remitted to the proper authorities as provided by law. (1970 Code, § 1-508, as amended by Ord. #207, July 2000, Ord. #233, Jan. 2005, Ord. #269, Nov. 2011, and Ord. #286, Sept. 2015)

**3-203. Disposition and report of fines, penalties, and costs.** All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines, penalties and costs imposed by his court during the current month and to date for the current fiscal year. (1970 Code, § 1-511)

**3-204. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language,

or by any distracting conduct whatsoever. (1970 Code, § 1-512)

**3-205. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1970 Code, § 1-506)

## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

**3-301. Issuance of arrest warrants.**<sup>2</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1970 Code, § 1-503)

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1970 Code, § 1-504)

**3-303. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1970 Code, § 1-505)

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<sup>2</sup>State law reference

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

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

**3-401. Appearance bonds authorized.** When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1970 Code, § 1-507)

**3-402. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) entire days thereafter, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>3</sup> (1970 Code, § 1-509)

**3-403. Bond amounts, conditions, and forms.** An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1970 Code, § 1-510)

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<sup>3</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

**TITLE 4****MUNICIPAL PERSONNEL****CHAPTER**

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. VACATION AND SICK LEAVE.
3. MISCELLANEOUS PERSONNEL REGULATIONS.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. DEFERRED COMPENSATION AND RETIREMENT PLAN.
6. SEXUAL HARASSMENT.
7. INTERNAL PERSONNEL POLICIES.
8. DRUG AND ALCOHOL TESTING.

**CHAPTER 1****SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES****SECTION**

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Exclusion of coverage due to another retirement system.

**4-101. Policy and purpose as to coverage.** It is hereby declared to be the policy and purpose of this municipality to provide for all eligible employees and officials of the municipality, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the municipality shall take such action as may be required by applicable state and federal laws or regulations. (1970 Code, § 1-701)

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1970 Code, § 1-702)

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations,

and shall be paid over to the state or federal agency designated by said laws or regulations. (1970 Code, § 1-703)

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1970 Code, § 1-704)

**4-105. Records and reports to be made.** The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1970 Code, § 1-705)

**4-106. Exclusion of coverage due to another retirement system.** There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the municipality. (1970 Code, § 1-706)

## CHAPTER 2

### VACATION AND SICK LEAVE

#### SECTION

- 4-201. Applicability of chapter.
- 4-202. Vacation leave.
- 4-203. Sick leave.
- 4-204. Leave records.

**4-201. Applicability of chapter.** This chapter shall apply to all full-time municipal officers and employees except those operating under the jurisdiction of a utility or other separate board or commission. (1970 Code, § 1-801)

**4-202. Vacation leave.** (1) All officers and employees who have been employed continuously by the municipality for at least one (1) year, but less than six (6) years, shall be given two (2) weeks of annual vacation leave with pay.

(2) All officers and employees who have been employed continuously by the municipality for at least six (6) years, but less than sixteen (16) years, shall be given three (3) weeks of annual vacation leave with pay.

(3) All officers and employees who have been employed continuously by the municipality for at least sixteen (16) years shall be given four (4) weeks of annual vacation leave with pay.

(4) Unused vacation leave may be accrued to a maximum not to exceed one hundred twenty (120) hours. On retirement, separation or termination of employment such unused vacation leave of an employee will be paid at the most recent pay rate of the employee at the time of payment.

(5) For the purpose of this section, the number of years of employment of all officers and employees shall be computed from and after one (1) year prior to the date of the adoption of this code. (1970 Code, § 1-802, as amended by Ord. #310, Jan 2020 *Ch5\_6-9-20*)

**4-203. Sick leave.** (1) All officers and employees who have been employed continuously by the municipality for at least one (1) year shall be given ten (10) days of sick leave with pay each year. Unused sick leave for any year shall accrue for the use by an employee during the next and succeeding years, but no such carry over and accrual shall at anytime exceed a total of twenty (20) days of sick leave. Sick leave shall be taken only when approved by the mayor or by such other officer as he may designate. Sick leave shall be approved for all officers and employees whose absence from duty is due to illness, bodily injury, exposure to contagious disease, or death in the immediate family of the officer or employee. However, the mayor may, in his discretion,

require doctor's certificates or other satisfactory evidence that absences are properly chargeable as sick leave. When an officer or employee is entitled to receive or receives workman's compensation, then he shall not be given sick leave.

(2) For the purpose of this section, the number of years of employment of all officers and employees shall be computed from and after one (1) year prior to the date of the adoption of this code. (1970 Code, § 1-803, as amended by Ord. #291, Dec. 2015)

**4-204. Leave records.** The mayor shall cause to be kept, for each officer and employee, a record currently up to date at all time showing leave taken under this chapter. (1970 Code, § 1-804)

## CHAPTER 3

### MISCELLANEOUS PERSONNEL REGULATIONS

#### SECTION

- 4-301. Business dealings.
- 4-302. Acceptance of gratuities.
- 4-303. Outside employment.
- 4-304. [Repealed.]
- 4-305. Use of municipal time, facilities, etc.
- 4-306. Use of position.
- 4-307. Strikes and unions.
- 4-308. Group medical insurance coverage.

**4-301. Business dealings.** Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the municipality. (1970 Code, § 1-901)

**4-302. Acceptance of gratuities.** No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the municipality for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business. (1970 Code, § 1-902)

**4-303. Outside employment.** No full-time officer or employee of the municipality shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality. (1970 Code, § 1-903)

**4-304. [Repealed.]** (1970 Code, § 1-904, modified, as repealed by Ord. #220, June 2003)

**4-305. Use of municipal time, facilities, etc.** No municipal officer or employee shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the board of mayor and aldermen has authorized the use of such time, facilities,

equipment, or supplies, and the municipality is paid at such rates as are normally charged by private sources for comparable services. (1970 Code, § 1-905)

**4-306. Use of position.** No municipal officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the municipality, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (1970 Code, § 1-906)

**4-307. Strikes and unions.** No municipal officer or employee shall participate in any strike against the municipality, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (1970 Code, § 1-907)

**4-308. Group medical insurance coverage.** (1) Subject to action taken from time to time by an incumbent board of mayor and aldermen subscribing to an annual group medical insurance coverage plan or program for full-time municipal employees and subject to funding of any cost thereof on the part of the municipality being made on an annual basis by specific appropriation or by a line item appropriation included in the annual fiscal year budget and appropriations ordinance, there will be subscribed by the city on an annual basis a group medical insurance plan for full-time city employees with the insurer and with the plan terms to be exclusively selected and determined by the city. Participation by a full-time employee in the plan will be purely voluntary.

(2) For full-time employees the city will pay one hundred percent (100%) of the premium cost for the full-time employee.

(3) For those present full-time employees now having family coverage under the existing plan the city will continue to pay for such employees one hundred percent (100%) of the premium cost for their family coverage less not to exceed twenty dollars (\$20.00) per week on such family coverage and fifteen dollars (\$15.00) per week for spousal coverage only. This family coverage cost sharing for existing employees will continue for so long as they remain full-time employees continuously without an interruption of service. For a full-time employee hired or re-hired on and after May 1, 2016 desiring family coverage under a plan then in effect the city will pay eighty percent (80%) of the premium cost for family coverage if applicable with the employee being responsible for the other twenty percent (20%) thereof. (as added by Ord. #293, April 2016)

## CHAPTER 4

### OCCUPATIONAL SAFETY AND HEALTH PROGRAM

#### SECTION

4-401. Created.

4-402. Title.

4-403. Program director designated.

4-404. Program standards.

4-405. Effective date of plan.

**4-401. Created.** There is hereby created a safety and health program for the employees of the City of McEwen as follows. (1970 Code, § 1-1001)

**4-402. Title.** This chapter shall be known as the "Occupational Safety and Health Program for the Employees of the City of McEwen." (1970 Code, § 1-1002)

**4-403. Program director designated.** The board of mayor and aldermen shall from time to time appoint a person to serve at their pleasure as the Director of the City's Occupational Safety and Health Program. Such Director shall prepare and submit to the board for approval a safety and health program to comply with the requirements of the Tennessee Occupational Safety and Health Act of 1972. Upon approval thereof the director shall implement the plan in accordance with this chapter. (1970 Code, § 1-1003, modified)

**4-404. Program standards.** This plan shall be at least as effective as the federal or state standards on the same issues and shall include the following:

(1) The director or his authorized representatives shall have the right to enter at any reasonable time any establishment, construction site, plant, work place, environment, or other area where work is performed in the City of McEwen; and to inspect and investigate any such place of employment and all pertinent conditions, processes, machines, devices, equipment, and materials therein, and to question privately any supervisor or employee.

(2) The director may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence under oath for the purpose of confirming or supplementing his findings.

(3) The director shall provide for education and training of personnel for the administration of the program, and, he shall provide for the education and training of all employees of the city to the extent that same is necessary for said employees to recognize and report safety and health problems as defined in the applicable standards.

(4) All employees shall be informed of the policies and the standards

set forth by the Tennessee Occupational Safety and Health Act.

(5) All employees of the city shall be informed of safety hazards, exposure to toxic or harmful materials and imminent danger situations that may occur in their jobs.

(6) The director or his authorized representative shall upon any allegation of imminent danger immediately ascertain whether there is a reasonable basis for the complaint. He shall make a preliminary determination of whether or not the complaint appears to have merit. If such is the case he or his authorized representative shall cause an immediate inspection of the alleged imminent danger location.

(7) Any employee shall be given the right to participate in an investigation or inspection which involves a safety and/or health situation which concerns his work area.

(8) The director shall establish a safety and health training program designed to instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment.

(9) The director shall contact the Commissioner of Labor of the State of Tennessee by telephone in the event of the death of an employee involved in a work-related accident. This notification will be done as soon as possible but not to exceed 48 hours.

(10) The director shall set up a procedure for requesting a variance from the Tennessee Department of Labor in the event an operation within the city does not meet the standards set by the Occupational Safety and Health Act and immediate action to alleviate the discrepancy is not possible.

(11) The director shall establish and maintain a system for collecting and reporting safety and health data required under the Tennessee Occupational Safety and Health Act.

(12) The director shall apply this program to employees of each administrative department, commission, board, division or other agency of the City of McEwen.

(13) The director shall make an annual report to the Commissioner of Labor for the State of Tennessee showing the accomplishments and progress of the City of McEwen in its Occupational Safety and Health Program.

(14) The director shall provide a means whereby any employee may submit a report of what he feels is a safety and/or health hazard to his immediate supervisor and the director without fear of jeopardizing his job or chances for future promotion. Such reports shall be preserved and the action thereon shall be noted on said reports and signed by the director or his designees.

(15) In implementing the plan the director shall adopt therein all the words and phrases designated as "definitions" in the Tennessee Occupational Safety and Health Act, promulgated regulations and standards thereunder.

(16) The director shall submit said plan to the Tennessee Department of Labor for approval on or before November 1, 1974. (1970 Code, § 1-1003,

modified)

**4-405. Effective date of plan.** The plan, upon its approval by the Tennessee Department of Labor, shall become effective to the City of McEwen and at this time shall become a part of this chapter as fully and completely as if set out herein. (1970 Code, § 1-1004)

## CHAPTER 5

### DEFERRED COMPENSATION AND RETIREMENT PLAN

#### SECTION

- 4-501. Establishment of plan and administration.
- 4-502. Pension and retirement board.
- 4-503. Eligibility for participation.
- 4-504. Effective date of participation.
- 4-505. Modification or termination of participation.
- 4-506. Authorized investments of deferred compensation.
- 4-507. Compensation eligible to be deferred.
- 4-508. Normal retirement age.
- 4-509. Maximum compensation deferrable.
- 4-510. Option to purchase authorized investments ownership of funds.
- 4-511. Death of a participant-designation of beneficiary.
- 4-512. Payments of deferred compensation.
- 4-513. Determination of total disability.
- 4-514. Option to pay out in lump sum.
- 4-515. Benefits must commence no later than age 70½.
- 4-516. Transfer of authorized investments to participant.
- 4-517. Plan in addition to other benefits.
- 4-518. Non-assignability of benefits.
- 4-519. Withdrawals for certain emergencies.
- 4-520. Termination by the city.
- 4-521. Governing law.
- 4-522. Effective date.

**4-501. Establishment of plan and administration.** The city hereby establishes for the benefit of individuals who perform services to the city as full-time employees or as elected or appointed officials a deferred compensation retirement and disability plan (hereinafter called the "plan"). The plan shall be administered by the person who shall be duly elected to and holding the office of mayor of the city from time-to-time as reflected in the records (hereinafter referred to as the "plan administrator"). (Ord. #147-1, June 1990)

**4-502. Pension and retirement board.** The board of mayor and alderman (the "board") shall ex-officio constitute the pension and retirement board of the city and shall have general supervision of the plan and to whom the plan administrator shall be responsible. (Ord. #147-1, June 1990)

**4-503. Eligibility for participation.** Participation in the plan shall be voluntary. Any individual who is a full-time employee of the city who is paid a salary or wage, but not a part-time or temporary employee, and any individual

who is elected or appointed to an office with the city may become a participant in the plan by executing a compensation reduction authorization agreement (hereinafter called a "CRA") in a form acceptable to the board, specifying the amount of his or her includable compensation to be deferred on a regular basis to be used by the board to provide the benefits set forth in the plan. No employee or officer of the city or person furnishing services to the city shall be entitled to any benefit conferred herein who has not become a participant by executing a CRA. (Ord. #147-1, June 1990)

**4-504. Effective date of participation.** Participation may be effected by any eligible individual on July 1 of any year provided he or she was employed by the city or serving as an elected or appointed officer thereof on January 1 prior thereto. (Ord. #147-1, June 1990)

**4-505. Modification or termination of participation.** Modification or termination of participation in the plan is effected by executing a subsequent CRA which will supersede and nullify a prior CRA. Such modification will be effected by either increasing or decreasing the amount of compensation to be deferred. A termination of deferrals will be effected by reducing to zero the amount of compensation to be deferred. All amounts of compensation deferred pursuant to a CRA, whether subsequently modified or terminated, shall be legally binding upon the participant and shall be irrevocable when accomplished. A request for a modification or termination shall be made no later than on the second pay day of the participant prior to the effective date of such modification or termination. (Ord. #147-1, June 1990)

**4-506. Authorized investments of deferred compensation.** When submitting a CRA a participant will select, in a form suitable to the board, one or more life insurance policies, annuity contracts or other insurance product permitted by law on his or her life having aggregate premiums equal to the amount of compensation deferred (hereinafter referred to as "authorized investments"). Authorized investments of a participant shall serve as the measure of his or her benefits to be paid under the plan. A participant shall specify the authorized investments to be purchased. Any insurer whose products are thus specified must be a duly licensed insurer authorized to do business in the State of Tennessee. The insurer selected by a participant shall hereinafter be referred to as the "insurer". In the absence of a selection of authorized investments by a participant, the plan administrator may treat the same as the selection of a fixed annuity contract on the participant's life to be purchased by the plan administrator from Metropolitan Life Insurance Company and such annuity contract when purchased shall constitute an authorized investment for the purpose of the plan. (Ord. #147-1, June 1990)

**4-507. Compensation eligible to be deferred.** Compensation which may be deferred shall be the amount of compensation which is includable in a participant's gross income for the taxable year. It shall not include amounts which are used to purchase an annuity contract under Section 403(b) of the code or amounts deferrable under the plan or any other plan meeting the requirements of Section 457 of the code. Such compensation shall be considered at its present value. (Ord. #147-1, June 1990)

**4-508. Normal retirement age.** Normal retirement age under the plan shall mean the date on which a participant attains the age of sixty-five (65) years (hereinafter called "normal retirement age"). (Ord. #147-1, June 1990)

**4-509. Maximum compensation deferrable.** Except as hereinafter provided the maximum amount of compensation which a participant may have deferred under the plan for any taxable year shall be the lesser of:

- (1) \$7,500 or
- (2) 1/3 of his or her includable compensation.

If a participant is involved in any other annuity or deferred compensation arrangement meeting the requirements of Section 403(b) or Section 457 of the code, then the maximum deferrable amount for the taxable year shall be reduced by the amounts, if any, excluded or deferred under any other elective deferral arrangement such as amounts excluded to purchase an annuity contract under Section 403(b), Section 402(a)(8), Section 401(k), Section 402(h)(1)(B), SEP's and Section 501(c)(18), all of the code. For one or more of a participant's last three taxable years before attaining normal retirement age the maximum amount of compensation which may be deferred under this plan shall be the lesser of:

- (a) \$15,000 or
- (b) The sum of the maximum amount which he or she may defer for the taxable year as herein provided and the difference between the maximum amount which he or she could have deferred as herein provided in all prior taxable years since participation commenced and the amount actually deferred in all such prior taxable years. (Ord. #147-1, June 1990)

**4-510. Option to purchase authorized investments ownership of funds.** The plan administrator may, but is not required to, purchase with the city as owner the authorized investments selected by a participant pursuant to the plan. All amounts of compensation deferred by and for a participant under the plan, all authorized investments purchased by the plan administrator and all income therefrom shall be and remain solely the property and rights of the city, subject only to claims of the general creditors of the city. Nothing in the plan shall be construed or interpreted to give any participant or the beneficiary of any participant at any time any security interest in an authorized

investment. Nor shall the plan be construed or interpreted so as to place any authorized investment in trust with the plan administrator for the city for the benefit of a participant or for the benefit of his or her beneficiaries. City shall be the sole owner of all authorized investments and shall have the exclusive right to all benefits therefrom. Authorized investments shall not be deemed to be collateral security for the payment of any benefits under the plan and shall be available to the city to meet its general obligations if the need shall arise; provided however, if the plan administrator does not purchase the authorized investments selected by a participant or if any authorized investment purchased is liquidated for any reason, then any and all benefits under the plan shall be paid from other funds and revenues of the city in amounts determined as set forth under the benefit portions of the plan. (Ord. #147-1, June 1990)

**4-511. Death of a participant-designation of beneficiary.** In the event of a participant's death the plan administrator shall make such payments as required to be made to the participant pursuant to the plan to any other person designated as beneficiary in writing with the plan administrator. A participant may change a designation of beneficiary from time to time either before or after payments shall commence. A change of beneficiary shall be accomplished and shall become effective upon receipt by the plan administrator of a written designation of beneficiary in a form acceptable to the board. In the absence of any written designation of a beneficiary the spouse of a participant, if any, at the time of death shall be deemed the designated beneficiary, otherwise the designated beneficiary shall be deemed to be the estate of the participant. (Ord. #147-1, June 1990)

**4-512. Payments of deferred compensation.** Payments of deferred compensation under the plan shall begin when a participant is actually separated from service with the city as an employee or as an elected or appointed official and is totally disabled or has reached normal retirement age or has died. In no event shall any distributions under the plan commence later than April 1 following the year in which a participant attains the age of 70½ years. Commencing with the first full calendar month following a participant's retirement from actual service due to total disability or upon death or upon a participant reaching normal retirement age and electing to cease active service, the plan administrator will cause monthly payments to be made to the participant for the remainder of his or her life with a total minimum guarantee of 120 such monthly payments. In the case of death such payments shall be made to his or her designated beneficiary. Such payments shall be equal in amount to what would be payable by the insurer to the city at the insurer's settlement rates in effect on the date of the participant's retirement, death or disability as if all the authorized investments selected by the participant, or otherwise, pursuant to the plan, had been purchased and as if, upon the participant's retirement, the city were to elect settlement of all such authorized

investments under an option providing for equal monthly payments for the life of the participant with a total minimum guarantee of 120 such payments. If a participant shall die before or after the plan administrator has caused payments hereunder to commence and if his or her designated beneficiary shall thereafter die before the final minimum monthly payments payable hereunder have been made, then the plan administrator shall promptly ascertain and cause to be paid in one lump sum to the beneficiary's estate an amount equal to what would be the commuted value of the remaining amount payable by the insurer to the city as if the city had elected a settlement option described above with respect to all authorized investments on the participant's life. If no designated beneficiary survives the participant then the plan administrator shall promptly ascertain and cause to be paid in one lump sum to the participant's estate an amount equal to what would be the commuted value of the remaining amount payable by the insurer to the city as if the city had elected the settlement option described above with respect to all authorized investments on his or her life. (Ord. #147-1, June 1990)

**4-513. Determination of total disability.** Retirement because of total disability to perform services for the city shall be determined by the board on a uniform basis applicable to all participants. (Ord. #147-1, June 1990)

**4-514. Option to pay out in lump sum.** Whenever the commuted value of amounts which would be payable by the insurer to the city under this plan is less than \$5,000 as of the date which would be the starting date of the full 120 payments payable under the plan, the plan administrator shall, in lieu of such 120 payments cause an amount equal to such commuted value to be paid in one lump sum. (Ord. #147-1, June 1990)

**4-515. Benefits must commence no later than age 70½.** In no event shall any distributions under the plan commence later than April 1 following the year in which a participant attains the age of 70½ years. Notwithstanding any other provisions of the plan a participant who is actually performing services for the city shall cause payments hereunder to commence upon proper application to the plan administrator during the calendar year in which he or she attains 70½ years. Such payments shall commence with the first full calendar month following the application. (Ord. #147-1, June 1990)

**4-516. Transfer of authorized investments to participant.** Notwithstanding any other provisions contained in the plan, upon the termination of employment or cessation in office of a participant, the board may, in its discretion, upon application of a participant, in lieu of the benefits provided under this plan, authorize the transfer and assignment to the participant of any authorized investments which the plan administrator has acquired on the life of the participant pursuant to the plan, any deferrals of

compensation that have not been invested in authorized investments and the value of any authorized investments that have been liquidated. For the purpose of applying this provision deferred compensation that is not invested in authorized investments and the value of any authorized investments that are liquidated, shall, while held by the city, bear interest at the rate of 6.00% per annum while not invested in authorized investments, except that no interest shall accrue with respect to deferred of compensation invested in an authorized investment within four (4) months of the date of deferral. City may, from time to time, change the rate of interest as herein provided by appropriate amendment hereto. If a transfer of assets is made hereunder all obligations of the city to pay benefits under the plan to a participant or to his or her beneficiary or estate shall terminate at the time of the transfer. (Ord. #147-1, June 1990)

**4-517. Plan in addition to other benefits.** The benefits payable pursuant to the plan are in addition to and not in lieu of any other retirement or disability benefits otherwise generally provided by the city from time-to-time. (Ord. #147-1, June 1990)

**4-518. Non-assignability of benefits.** No participant under the plan may assign, transfer or in any way encumber the benefits payable under the plan and any attempt to do so shall result in forfeiture of all rights to such benefits. The obligation of the city hereunder shall not be construed so as to give any participant any prior claim to any particular asset of the city. (Ord. #147-1, June 1990)

**4-519. Withdrawals for certain emergencies.** If a participant hereunder shall hereafter be faced with an unforeseeable emergency causing severe financial hardship, as hereafter defined or as defined in regulations issued of the Secretary of the Treasury of the United States pursuant to Section 457 of the code, the participant may apply, in a form acceptable to the board, for a withdrawal of any specified portion, as of the date of such application, of what would be the value of all authorized investments on his or her life as if the plan administrator had purchased from the insurer all the authorized investments selected by the participant, or otherwise, pursuant to the plan. Except as may be provided in regulations issued by the Secretary of the Treasury of the United States pursuant to Section 457 of the code, the phrase "unforeseeable emergency causing severe financial hardship" shall mean any sudden or unforeseen event or casualty beyond the control of the participant and which causes unexpected major expense and which is not in fact reimbursed from insurance or otherwise. Such an event or casualty may include an illness or accident involving the participant or a member of his or her immediate family; an accident or casualty causing serious damage or loss to his or her property; or any other situation causing unexpected major expense and which would not normally be budgeted

and which, if withdrawal were not permitted, would result in bankruptcy or in impending bankruptcy under federal law or under state law. Such shall not include the need for foreseeable expenditures which are normally budgetable, such as down payments for purchase of a home, payments for the purchase of motor vehicles or payments for college expenses. In the event of a withdrawal by a participant due to an unforeseeable emergency causing severe financial hardship the deferred compensation benefits payable pursuant to the plan shall be reduced to the extent any authorized investment on the life of the participant may be invaded for the purpose of such withdrawal as if the city had surrendered for its cash value or otherwise liquidated such authorized investment, in whole or in part, to obtain funds with which to pay the participant's requested withdrawal. Deferred compensation benefits thereafter shall be payable only on the basis of what would be the net remaining value cash or other value of such authorized investment on the date when deferred compensation benefits otherwise become payable pursuant to the plan. No withdrawal may in any event exceed the amount needed by a participant to meet the particular severe financial hardship including the estimate by the plan administrator of any increased federal or state income tax liability attributable to the amount of withdrawal pursuant hereto. (Ord. #147-1, June 1990)

**4-520. Termination by the city.** The city may terminate this plan at any time without the consent of any participant; provided, however, the plan shall be legally binding and irrevocable with respect to all deferrals of compensation effected prior to the effective date of such termination. Accordingly, any termination of this plan shall apply only to compensation of any participant earned after the effective date of such termination. (Ord. #147-1, June 1990)

**4-521. Governing law.** The plan as herein adopted shall be construed under and in accordance with the laws of the State of Tennessee. (Ord. #147-1, June 1990)

**4-522. Effective date.** This chapter shall take effect July 1, 1990, the welfare of the city requiring it. (Ord. #147-1, June 1990)

## CHAPTER 6

### SEXUAL HARASSMENT

#### SECTION

- 4-601. Definitions.
- 4-602. Prohibition.
- 4-603. Reports.
- 4-604. Confidentiality.
- 4-605. Retaliation.
- 4-606. Investigation.
- 4-607. Sanctions or corrective actions.

**4-601. Definitions.** The following definitions shall apply:

(1) "Sexual harassment" is unwanted sexual conduct by an employee's supervisor or by a fellow employee that adversely affects an employee's job or job performance.

(2) "Sexual conduct" includes sexual advances, requests for sexual favors, propositions of a sexual nature, physical touching, indecent sexual exposure, sexually provocative language, sexual oriented jokes, broadcasts or displays of sexually oriented recordings, pictures, photographs, cartoons or other form of written, printed or magnetically recorded sexually explicit materials.

(3) "Employee" is a full-time or part-time employee or appointed or elected official of the city. (as added by Ord. #183, § 1, Feb. 1997)

**4-602. Prohibition.** No employee shall engage in sexual harassment. (as added by Ord. #183, § 2, Feb. 1997)

**4-603. Reports.** An employee shall immediately report incidents of sexual harassment in writing to the mayor and to the city attorney. (as added by Ord. #183, § 3, Feb. 1997)

**4-604. Confidentiality.** All reports of sexual harassment and all actions taken in regard thereto shall be handled with as much confidentiality as possible in order to protect the reporting employee and the employee against whom any complaint is made. (as added by Ord. #183, § 4, Feb. 1997)

**4-605. Retaliation.** No retaliation in any form shall be taken against any employee who reports or makes a complaint of sexual harassment or who is called as a witness in regard thereto unless it is later found that such charge or report was untrue and made for an improper purpose such as malice toward the person charged or against whom a report is made. (as added by Ord. #183, § 5, Feb. 1997)

**4-606. Investigation.** The mayor and the city attorney, jointly or separately, shall immediately investigate all reports and complaints of sexual harassment toward the end of determining all facts in connection therewith and in an effort to arrive at the truth and to be as fair as possible to all parties involved. A written report of the result of the investigation shall be prepared. Sworn statements shall be taken from any complaining employee and from any witnesses. An employee against whom a charge of sexual harassment is made shall be permitted to present such evidence as he or she deems relevant. (as added by Ord. #183, § 6, Feb. 1997)

**4-607. Sanctions or corrective actions.** (1) As regards an employee of the city (other than the mayor or an alderman) against whom a complaint is made or who is accused of sexual harassment, the mayor shall make a determination whether or not the evidence by its greater weight supports the occurrence of sexual harassment as reported or charged and if an employee is guilty thereof. Any employee (except the mayor or an alderman) guilty of sexual harassment shall be disciplined as the mayor shall direct to include, but not necessarily limited to, written reprimand, demotion and discharge. The decision of the mayor may be appealed by the sanctioned employee to the board of mayor & aldermen whose decision shall be final.

(2) If the mayor is the employee against whom a report or a charge of sexual harassment is made, the city attorney shall investigate the same and shall prepare a confidential report which shall be submitted to the board of aldermen who shall make the determination from the greater weight of the evidence whether or not the mayor is guilty of sexual harassment. The board of aldermen shall take such corrective action as a majority thereof shall prescribe by way of public or private censure or by authorization of the filing of proceedings for ouster from office for misconduct as provided by law.

(3) If an alderman is the employee against whom a report or a charge of sexual harassment is made, the city attorney shall investigate the same and shall prepare a confidential report which shall be submitted to the board of mayor & aldermen who shall make the determination from the greater weight of the evidence whether or not the alderman is guilty of sexual harassment. The board of mayor & aldermen shall take such corrective action as a majority thereof shall prescribe by way of public or private censure or by authorization for filing of proceedings for ouster from office for misconduct as provided by law.

(4) The corrective action taken or sanctions imposed shall reflect the severity of the sexual harassment found to have occurred, the relative positions of the personnel involved and the likelihood of such corrective action serving as a deterrence to further such misconduct in the work place.

(5) If after a fair investigation it is determined that sexual harassment as charged or reported did not occur or that there is insufficient evidence to justify a finding that it did occur, then such conclusion shall be communicated

to the complaining or reporting employee along with a written statement of the reasons for the determination. (as added by Ord. #183, § 7, Feb. 1997)

## CHAPTER 7

### INTERNAL PERSONNEL POLICIES

#### SECTION

- 4-701. At-will employer.
- 4-702. Policy applies to all employees; exception.
- 4-703. Full-time, part-time, and temporary and/or seasonal employees.
- 4-704. Hiring objective.
- 4-705. Application for employment.
- 4-706. Examinations may be required of applicants.
- 4-707. Holidays.
- 4-708. Grievance procedure.
- 4-709. City is an equal opportunity employer.
- 4-710. Regular work week; overtime.
- 4-711. Military leave.
- 4-712. Employees required to have commercial driver's license.
- 4-713. Employees subject to alcohol and drug testing.
- 4-714. Separation of employment.

**4-701. At-will employer.** City is an at-will employer. Nothing in its personnel policies or regulations will be construed as creating a property right or contract right in any job or any employee in municipal service. (as added by Ord. #191, July 1998)

**4-702. Policy applies to all employees; exception.** Unless otherwise specifically provided, no internal personnel policy of the city will apply to:

- (1) Elected city officials;
- (2) Members of appointed city boards and commissions;
- (3) Consultants, advisers and legal counsel to the city rendering temporary or professional service;
- (4) The city attorney;
- (5) Independent contractors and/or contract employees of the city;
- (6) Volunteer personnel performing service to the city; and
- (7) The city judge.

All other employees of the city are subject to all personnel policies and regulations unless specifically excluded therefrom. (as added by Ord. #191, July 1998)

**4-703. Full-time, part-time, and temporary and/or seasonal employees.** Unless otherwise specifically defined, full-time employees of the city for all purposes are individuals employed by the city for a normal work week of at least 30 hours per week/ and part-time employees of the city are those individuals who do not work on a daily basis or who work on a daily basis, but

for fewer than 8 hours a day or fewer than 30 hours per week or who are temporary and/or seasonal employees. (as added by Ord. #191, July 1998)

**4-704. Hiring objective.** The primary objective in the hiring of employees for city service is to insure compliance with the law and to obtain qualified personnel to serve the citizens of the city. City officials will make reasonable accommodations in all hiring procedures to accommodate persons with disabilities. (as added by Ord. #191, July 1998)

**4-705. Application for employment.** All persons seeking regular or part-time employment with the city must complete a standard application form provided by the city. Applications for employment will be received during regular office hours only. Applications will remain in active status for (6) months after they are accepted or until the particular job for which a particular application is submitted has been filled, whichever period of time is less. (as added by Ord. #191, July 1998)

**4-706. Examinations may be required of applicants.** Applicants may be required to undergo a validated physical agility examination related to the essential functions of a particular job, validated written and/or oral tests related to the essential functions of such job, drug testing, and upon a conditional offer of employment, a medical examination to determine his or her ability to perform the essential functions of the job. Reasonable accommodations will be made in the physical agility exam for applicants with disabilities making a request for accommodations. (as added by Ord. #191, July 1998)

**4-707. Holidays.** (1) Full-time employees of the city are allowed paid holidays for a regular eight (8) hour work day during each calendar year as follows:

- (a) New Year's Day of January 1 or if that day falls on a Saturday or Sunday then on the Friday prior thereto;
- (b) Martin Luther King Birthday on the third Monday in January;
- (c) President's Day on the third Monday in February;
- (d) Memorial Day on the last Monday of May;
- (e) Independence Day on July 4 or if that day falls on a Saturday or Sunday then on the Friday prior thereto;
- (f) Labor Day on the first Monday in September;
- (g) Columbus Day on the second Monday in October;
- (h) Veterans Day on November 11 or if that day falls on a Saturday or Sunday then on the Friday prior thereto;
- (i) Thanksgiving Day on the fourth Thursday of November;
- (j) Friday after Thanksgiving Day;

(k) Christmas Eve of December 24 or if that day falls on a Saturday or Sunday then on the Friday prior thereto;

(l) Christmas Day of December 25 or if that day falls on a Saturday or Sunday then on the Monday following; and

(m) Good Friday.

(2) Employees must be in a pay status on the work day before and on the work day after the holiday, unless otherwise excused by the mayor, in order to receive compensation for a holiday. An employee required to work on regular paid holiday will be granted 8 hours off on an alternate day approved by the mayor or a city department head. (as added by Ord. #191, July 1998, and amended by Ord. #261, Nov. 2010, and Ord. #287, Sept. 2015)

**4-708. Grievance procedure.** There will be uniform disposition of grievances presented by individual city employees. A grievance is a written question, disagreement or misunderstanding concerning administrative orders involving only the employee's work area, reasonable accommodations under Americans with Disabilities Act, physical facilities, unsafe equipment or unsafe material used. A grievance must be submitted within five (5) working days of the incident causing the grievance. There is no grievance until the mayor has been made aware of the dissatisfaction by such written notice. Once done, the following steps will be taken:

Step 1. Discuss the problem with the mayor. If satisfaction is not obtained, the grievance is advanced to the second step.

Step 2. Discuss the problem with the board of mayor and alderman at a regular or special meeting. The decision of the board is the last and final step in the process. Such decision is binding on all parties involved. (as added by Ord. #191, July 1998)

**4-709. City is an equal opportunity employer.** The city is an equal opportunity employer. Except as otherwise permitted by law, the city will not discharge nor fail or refuse to hire an individual or otherwise discriminate against any individual with respect to compensation, terms, conditions or privileges of employment because of race, color, religion, gender or national origin, nor because the individual is forty (40) or more years of age. City will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training or other terms, conditions and privileges of employment. (as added by Ord. #191, July 1998)

**4-710. Regular work week; overtime.** The terms and requirements of the federal Fair Standards Act shall govern the payment of overtime compensation to city employees. The regular work week is forty (40) hours and

commences at 12:00 A.M. on Sunday and ends at 11:59 P.M. on the following Saturday. The beginning and end of a regular work day for any particular employee will be prescribed by the mayor or a city department head. A lunch or dinner break of a specified time is allowed. No employee will begin work prior to the commencement of his or her regular work day period or shift without the approval of the mayor or a city department head. No employee will work over-time without the approval of the mayor, or a city department head. (as added by Ord. #191, July 1998)

**4-711. Military leave.** All city employees who are members of the Tennessee National Guard are entitled to leave while engaged in duty or training under competent orders. They will be given such leave with pay not exceeding 15 working days in any one calendar year. All other military leave shall be without pay. Any employee of the city who leaves his or her job, voluntarily or involuntarily, to enter active duty in the armed forces of the United States may return to the job in accordance with applicable federal and state law. (as added by Ord. #191, July 1998)

**4-712. Employees required to have commercial driver's license.**  
Employees driving

- (1) A vehicle with a gross weight or more than 26,000 pounds;
- (2) A trailer with a gross weight of more than 10,000 pounds;
- (3) A vehicle designed to transport more than 15 passengers, including the driver; or
- (4) Any size vehicle hauling hazardous waste requiring placards, will have a valid Tennessee Commercial Driver's License in accordance with state law. (as added by Ord. #191, July 1998)

**4-713. Employees subject to alcohol and drug testing.** All employees in police, fire or other safety-sensitive positions are subject to alcohol and drug testing in accordance with the federal Omnibus Transportation Employee Testing Act of 1991 and the requirements thereof will be followed. In addition, every employee shall be subject to alcohol or drug testing whenever there is reasonable suspicion that the employee is using or under the influence of drugs or alcohol while on duty. Failure of an employee to submit to any required testing will be reason for immediate termination of his or her employment. (as added by Ord. #191, July 1998)

**4-714. Separation of employment.** Any employee of the City of McEwen, Tennessee shall serve at the pleasure of the board of mayor and alderman and such employee may be discharged at the pleasure of said board. No employee will be discharged for reasons that are prohibited by state and federal law. All separations of employees within the City of McEwen, Tennessee will be accomplished by: resignation, layoff, disability, death, retirement and dismissal. At the time of separation and prior to final payment, all records,

assets and other city property in the employees custody must be returned to the city. Any amount due because of shortages shall be withheld from the employees final compensation.

Any employee of the City of McEwen, either in part time or full time status may appeal any disciplinary action taken against them by a city department head or the mayor before the Board of Mayor and Alderman of the City of McEwen meeting in either called or regular session. The decision of the board of mayor and alderman by majority vote shall be final. The board of mayor and alderman may take any action in the matter, including but not limited to the reinstatement of any employee, the withdrawal of any suspension imposed, the reinstatement of lost pay to any employee who has been discharged or suspended, to remove a written reprimand from any employee's file, to reduce the punishment of any employee and to clear the name of any employee.

Any employee that desires to make an appeal to the board of mayor must do so within 15 days of the date in which the action was taken against them and must make such request in writing and deliver the same to the city recorder.

Any employee dissatisfied with the action of any department head must first appeal to the mayor, this appeal must be made within five (5) days of the action that was taken against them. The employee must personally notify the mayor of his/her desire to appeal within five (5) days. After the mayor reviews the situation and makes his decision, the employee may appeal to the board of mayor and alderman using the method as indicated above. The decision of the board of mayor and alderman shall be final and entered into the official minutes of the city by the city recorder. (as added by Ord. #191, July 1998)

## CHAPTER 8

### DRUG AND ALCOHOL TESTING

#### SECTION

- 4-801. Policy.
- 4-802. Definitions.
- 4-803. Pre-employment testing.
- 4-804. Post-accident testing.
- 4-805. Random testing.
- 4-806. Reasonable suspicion testing.
- 4-807. Return to duty testing.
- 4-808. Follow-up testing.
- 4-809. Breath alcohol testing.
- 4-810. Urine specimen collection procedures.
- 4-811. Testing methodology.
- 4-812. Review of results.
- 4-813. Specimen re-testing requested by employee.
- 4-814. Consequence of positive drug or alcohol test result of an employee.
- 4-815. Self-reporting.
- 4-816. Employee acknowledgment of policy.
- 4-817. Repeal of existing policies.

**4-801. Policy.** (1) The use of alcohol or an illegal drug or the unlawful or irregular use of a prescription drug by an employee during working hours and for a period of four (4) hours prior to commencement thereof and for a period of eight (8) hours following an on-the-job accident or injury in which the employee is involved is prohibited.

(2) Being under the influence or impaired by use of alcohol or a drug while operating a municipal vehicle or equipment or while otherwise engaging in municipal business by an employee is prohibited.

(3) An employee called to work at other than regularly scheduled hours must disclose to his or her immediate supervisor his or her use of alcohol or drugs for the four (4) hours immediately prior to reporting for such work or duty. To the extent the supervisor reasonably determines the employee is under the influence or impaired by use of alcohol or under the influence or impaired by use of a drug the employee will be excused from work or duties, without pay, during the continuation of such impairment. Disclosure made voluntarily by the employee will relieve penalty or sanction otherwise provided herein, but will not thereafter exempt the employee from any subsequent testing requirement or the sanction otherwise provided in connection therewith. (as added by Ord. #226, Aug. 2003)

**4-802. Definitions.** Unless otherwise defined for the purposes hereof the following definitions shall apply:

- (1) "Alcohol." An intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- (2) "Controlled substance." Amphetamines, cannabinoids, cocaine, barbiturates, opiates, and phencyclidine.
- (3) "Drug." Controlled substances and prescription drugs.
- (4) "Employee." A full- or part-time person, temporary, permanent or probationary, including a volunteer fireman, employed by the municipality, but excluding the mayor and members of boards, commissions or committees.
- (5) "Municipality." City of McEwen, Tennessee.
- (6) "Prescription drug." Medication requiring a prescription of a licensed physician or other licensed medical practitioner which impairs the ability to safely perform a work function.
- (7) "Under influence or impaired by use of alcohol." Having a blood or breath alcohol concentration of 0.04% or greater. (as added by Ord. #226, Aug. 2003)

**4-803. Pre-employment testing.** (1) Applicants for positions of employment must submit to drug and alcohol testing as a pre-requisite to employment. A negative test result must be received before a final offer of employment is made. Refusal to submit to testing will be disqualification from municipal employment.

(2) A positive test result for a prescription drug will not per se disqualify if the applicant discloses regular lawful use of such prescription drug prior to the testing and it is determined that continued use will not unreasonably interfere with the performance of the job for which applied. (as added by Ord. #226, Aug. 2003)

**4-804. Post-accident testing.** (1) If an employee is involved in an accident causing injury to the employee or to another person sufficient to require treatment for the injury, the employee will submit to an alcohol and drug test.

(2) A drug and alcohol test must be administered within two (2) hours following an accident. The employee must notify his or her supervisor immediately to insure action is taken to meet this testing requirement.

(3) An employee must refrain from using alcohol for eight (8) hours following an accident or until he or she has submitted to a drug and alcohol test, whichever first occurs; otherwise he or she will be considered as having refused to submit to testing.

(4) An employee must remain available for testing or will be considered as having refused to submit to testing.

(5) Refusal to comply with a testing requirement is grounds for immediate termination of employment. (as added by Ord. #226, Aug. 2003)

**4-805. Random testing.** (1) Employees are subject to random testing for drugs and alcohol. Random testing will be done in a fair and equitable manner.

(2) Testing may be done at any time an employee is at work. In the case of an employee who is not subject to regular or routine hours of employment the test will be administered at the first reasonable opportunity after he or she has been selected for such testing.

(3) Selection of employees for random testing will be by a computer-based random number generator matched with employee Social Security numbers such that every employee shall have an equal chance of being selected. In order to comply with testing requirements for holders of Commercial Driver Licenses (CDL) those employees holding a CDL will be grouped into a separate database and shall be randomly selected from such separate database so as to assure that minimum annual testing requirements are met. Likewise volunteer firemen will be grouped into a separate database and at least one (1) volunteer fireman will be randomly selected for testing at the same time of random selection of employees in the general employee database.

(4) Random tests will be unannounced and spread reasonably throughout the year.

(5) Employees notified of selection for random testing shall proceed immediately to the designated collection site. (as added by Ord. #226, Aug. 2003)

**4-806. Reasonable suspicion testing.** An employee operating a municipal vehicle or mechanical equipment or while otherwise engaging in municipal business who acts in an abnormal manner sufficient to cause reasonable suspicion that he or she has violated § 4-801 hereof must submit to an alcohol and/or drug test upon direction of the mayor. (as added by Ord. #226, Aug. 2003)

**4-807. Return to duty testing.** An employee allowed to return to duty following referral, evaluation, and treatment as a result of a positive alcohol or drug test must submit to a return-to-duty alcohol and/or drug test. A blood alcohol concentration test result of less than 0.02% and a negative drug test must be obtained before return to duty is considered or allowed. (as added by Ord. #226, Aug. 2003)

**4-808. Follow-up testing.** In the event an employee is allowed to return to duty following referral, evaluation, and treatment, a minimum of six (6) unannounced alcohol and/or drug tests shall be required during the succeeding twelve (12) months of employment. Follow-up testing may continue up to sixty (60) months following return to duty. The cost of such additional testing shall be paid by the employee. (as added by Ord. #226, Aug. 2003)

**4-809. Breath alcohol testing.** Breath Alcohol Testing (BAT) will be performed by a certified technician trained in the principles of Evidential Breath Testing (EBT) device methodology, operation and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required

for obtaining a breath sample; and interpreting and recording EBT results. The EBT device must be approved to the standards of the National Highway Traffic Safety Administration (NHTSA).

(1) Alcohol testing will be conducted in a location affording reasonable visual and aural privacy to the employee being tested. Unauthorized persons will not be permitted access to a testing location when a test is in progress.

(2) EBT will require an individually sealed mouthpiece attached to the EBT device. Employee will blow into the mouthpiece forcefully until an adequate amount of breath has been obtained. EBT device must record the result, display it, and print the result immediately. The printed result will be recorded on a breath testing form by attaching with tamper proof tape.

(3) If a BAT result is less than 0.02% no further testing is authorized and the result will be transmitted to the mayor.

(4) If the BAT result is 0.02% or greater, a confirmation test must be performed to verify the initial test. The confirmation test will be conducted no less than fifteen (15) minutes nor more than twenty (20) minutes after the initial test. In the event the initial and confirmation test results are different, the confirmation test result will be deemed to be the final result upon which any action is based.

(5) Following completion the BAT result will be dated and a certification entered on the form by the technician. The employee must sign the certification and fill in the date on the form.

(6) Refusal to submit to a test or to comply with testing procedures shall be treated the same as if the result were 0.04 or greater.

(7) BAT results will be kept in a secure and confidential manner so that disclosure of information to unauthorized persons does not occur; provided, however:

(a) An employee will have access to his or her test records upon written request.

(b) Post-accident testing information must be disclosed as part of an accident investigation.

(c) Records may be made available to a subsequent employer upon receipt of a written request from the employee.

(d) Records may be disclosed to the employee, counsel for the municipality and to the decision-maker in legal or other proceedings initiated by or on behalf of the employee. This includes worker's compensation, unemployment compensation, or other proceedings relating to a benefit sought by the employee.

(8) An employee who attempts, but fails to provide an adequate amount of breath, will be directed to obtain, as soon as practical, an evaluation from a licensed physician acceptable to the mayor concerning any claim of medical inability to provide an adequate amount of breath based on a medical reason. If no medical reason exists to prevent an employee from providing an adequate amount of breath, he or she shall be deemed as having refused to take the test. (as added by Ord. #226, Aug. 2003)

**4-810. Urine specimen collection procedures.** (1) Procedures for collection, shipment and accession of urine specimens to a designated laboratory will account for the integrity of each urine specimen and will track its handling and storage from point of collection to final disposition of the specimen.

(2) Urine specimen collections may be done in-house or by an outside source that meets security requirements. Collection sites will be secure locations to allow maximum privacy to include a toilet for completion of urination and a source of water for washing hands which is excluded from the area provided for urination.

(3) No person who is not involved in the collection process will be present or gain access to a collection area during the collection process. Specimens must remain in the direct control of the collection site collector. No person other than the collection site collector may handle specimens prior to the same being placed securely in a mailing container.

(4) An employee reporting to a collection site for specimen collection will present a photo I.D. and will remove all unnecessary outer garments (e.g., coat or jacket), and set aside all personal belongings except his or her wallet.

(5) An employee will be allowed to provide a urine specimen in the privacy of a stall.

(6) If the collection site collector believes tampering or adulteration has occurred, a second specimen will be collected immediately under direct observation of a same-gender collection site collector. Both samples will be sent to the laboratory.

(7) Refusal to submit to a test will be considered a verified positive result.

(8) In all cases the employee and the collection site collector will keep the specimen in view at all times prior to being sealed and labeled. The specimen will be labeled with tamper proof seals. The employee will sign appropriate places on the chain of custody document and initial the seal on the bottle attesting that the specimen is specific to the employee providing the sample. (as added by Ord. #226, Aug. 2003)

**4-811. Testing methodology.** (1) Urine specimens will undergo an initial screening followed by confirmation of all positive screen results.

(2) The laboratory will report the test results directly to the mayor within five (5) working days. The report will indicate the drug/metabolites screened, whether the results are positive or negative, the specimen number assigned by the collection site collector and the laboratory identification number.

(3) A portion of the urine specimen will be retained by the laboratory for possible retesting for up to thirty (30) days. (as added by Ord. #226, Aug. 2003)

**4-812. Review of results.** (1) A licensed physician possessed of a knowledge of drug abuse disorders may be utilized to review and interpret positive results obtained from the laboratory and to assess and determine

whether alternate medical explanations can account for a positive test result. The physician may conduct a medical interview of the employee, review the employee's medical history and review any other relevant bio-medical factors.

(2) During the course of an interview of an employee who tested positive, if the physician learns of a medical condition which could, in reasonable medical judgment, pose a risk to safety, the physician will report that information to the mayor. (as added by Ord. #226, Aug. 2003)

**4-813. Specimen re-testing requested by employee.** An employee who has a confirmed positive drug test has seventy-two (72) hours in which to request a re-testing of the split specimen. If the employee makes such a request, the laboratory will be directed to provide the specimen to another certified laboratory for analysis. If the analysis of the specimen fails to reconfirm the presence of the drug or drug metabolite found in the primary specimen, or if the specimen is unavailable, inadequate for testing, or not susceptible to test, the re-test will be canceled. Re-testing of a specimen and the associated costs is the responsibility of the employee. (as added by Ord. #226, Aug. 2003)

**4-814. Consequence of positive drug or alcohol test result of an employee.** (1) A verified positive test result for an illegal drug and/or an alcohol breath test with a confirmed result of 0.04% or greater shall result in the immediate termination of an employee from his or her employment.

(2) A confirmed alcohol breath test result is 0.02% or greater, but less than 0.04%, or a confirmed test result of use of a prescription drug without satisfactory demonstration that it was used lawfully and regularly shall subject an employee to disciplinary action including, but not necessarily limited to a specified duration of suspension followed by a retest of the employee at his or her expense.

(3) In all cases of a verified positive drug test result and/or a confirmed alcohol breath test result the employee will be referred to a substance abuse professional for evaluation, referral and treatment as a condition of any retention of employment. The employee is responsible for any expense incurred for such treatment or rehabilitation subject to any health insurance benefits which may apply. (as added by Ord. #226, Aug. 2003)

**4-815. Self-reporting.** (1) An employee who approaches the mayor for assistance through rehabilitation for drug or alcohol abuse prior to testing will be afforded positive consideration for a medical leave of absence, without pay, for treatment and/or counseling to be pursued.

(2) An employee regularly taking lawfully prescribed prescription drugs must report such fact to his or her immediate supervisor and furnish a copy of the prescription form for inclusion in his or her personnel record. (as added by Ord. #226, Aug. 2003)

**4-816. Employee acknowledgment of policy.** Within thirty (30) days from the effective date hereof all employees as a condition for continued employment and all future applicants for employment as a condition for initial employment shall execute and file with the municipality as a part of his or her personnel record a statement that he or she has received a copy of this policy on alcohol and drug use and testing and understands and agrees to abide therewith. (as added by Ord. #226, Aug. 2003)

**4-817. Repeal of existing policies.** All existing policies of the municipality relative to drug or alcohol use in the workplace or for testing of employees are hereby abrogated, rescinded and repealed. (as added by Ord. #226, Aug. 2003)

## TITLE 5

### MUNICIPAL FINANCE AND TAXATION<sup>1</sup>

#### CHAPTER

1. PRIVILEGE TAXES.
2. WHOLESALE BEER TAX.
3. PURCHASING.
4. DEBT MANAGEMENT POLICY.
5. PURCHASING AND SALE OF PERSONAL PROPERTY CODE.
6. REAL AND PERSONAL PROPERTY TAX.

#### CHAPTER 1

#### PRIVILEGE TAXES

#### SECTION

- 5-101. Scope of taxation.
- 5-102. Definitions.
- 5-103. Prohibition and penalties.
- 5-104. Administration of chapter.
- 5-105. Intention of chapter.
- 5-106. Payment of taxes to state.

**5-101. Scope of taxation.** Pursuant to § 67-4-701 et seq., Tennessee Code Annotated, known as the "Business Tax Act" (the "act"), there are hereby levied annually taxes for the privilege of making sales or performing services within the City of McEwen (the "city") on any person engaged in any of the vocations, occupations, businesses or business activities declared so taxable pursuant to the act by municipalities, to the fullest extent therein provided, according to the classifications and upon and at the maximum rates of taxation as therein allowed to be imposed by municipalities, payable in such manner and at such times as provided in the act. (Ord. #173, July 1995)

**5-102. Definitions.** Definitions for the interpretation, application, operation and enforcement of this chapter shall be in accordance with and shall be the same as those definitions contained in the act. (Ord. #173, July 1995)

**5-103. Prohibition and penalties.** (1) No person shall exercise any privilege or perform any service taxable under the act unless at all times relevant thereto such person shall then hold a currently effective license, tax

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<sup>1</sup>Charter references: §§ 21, 29, and 31.

receipt or other indicia of payment of the taxes imposed by this chapter, duly issued by the recorder to such person, after having complied with the provisions of this chapter by the payment of the appropriate taxes herein provided.

(2) Any person who shall exercise such privileges without having complied with the provisions of this chapter shall, notwithstanding, be fully liable for the taxes that would otherwise have been required to have been paid. Any person who shall exercise such privileges without having fully complied with the provisions of this chapter shall thereby commit an offense against the city. Upon being found guilty of the commission thereof such person shall be fined \$50 and shall be required to pay the court costs as imposed in addition thereto. Each separate day of violation shall be considered a separate offense. (Ord. #173, July 1995)

**5-104. Administration of chapter.** The provisions for the administration, collection, computation, exemptions, credits allowable, making of returns and payment, requirements for the keeping of books and records, disclosure of information and the other provisions of the act governing the same are hereby adopted as the rules and regulations for the administration of this chapter by the city. (Ord. #173, July 1995)

**5-105. Intention of chapter.** It is the intention of this chapter to provide for the full taxation of all privileges allowed to be taxed by municipalities pursuant to the act and for the administration of the same within the city to be in accordance with all provisions of the act. (Ord. #173, July 1995)

**5-106. Payment of taxes to state.** The city shall pay to the State of Tennessee, as shall be required to be paid by local collectors annually, the percentage of such taxes as collected by the city as may by law be due the State of Tennessee. (Ord. #173, July 1995)

## CHAPTER 2

WHOLESALE BEER TAX

## SECTION

5-201. To be collected.

**5-201. To be collected.** The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>2</sup> (1970 Code, § 6-301)

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<sup>2</sup>State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

**CHAPTER 3****PURCHASING****SECTION**

5-301. Purchases exceeding \$5,000.00.

**5-301. Purchases exceeding \$5,000.00.** Pursuant to the Municipal Purchasing Law of 1983, codified as § 6-56-301 et seq., Tennessee Code Annotated, there is increased the dollar amount from \$2,500 to \$5,000 for which public advertisement and competitive bidding shall be required for procurement, purchasing and lease or lease-purchasing of goods and services by the municipality. (as added by Ord. #195, June 1999)

## CHAPTER 4

### DEBT MANAGEMENT POLICY<sup>3</sup>

#### SECTION

- 5-401. Definition of debt.
- 5-402. Approval of debt.
- 5-403. Transparency.
- 5-404. Role of debt.
- 5-405. Issuance term of debt.
- 5-406. Types and limits of debt.
- 5-407. Use of variable rate debt.
- 5-408. Use of derivatives.
- 5-409. Costs of debt issuance.
- 5-410. Refinancing outstanding debt.
- 5-411. Professional services.
- 5-412. Review of debt policy.

**5-401. Definition of debt.** For the purposes hereof debt shall consist of all obligations to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of city resources. Debt includes, but is not limited to, notes, bond issues, capital leases, and loans of any type (whether from an outside source such as a bank or from another internal fund of the city). (as added by Ord. #268, Nov. 2011)

**5-402. Approval of debt.** Proposed bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes shall be submitted to the Comptroller of the State of Tennessee ("Comptroller") and to the board prior to issuance or entering into the obligation. A plan for refunding an existing debt issue shall also be submitted to the Comptroller prior to issuance. Capital or equipment leases may be entered into by the board without prior Comptroller approval; provided, however, details on the lease agreement shall be forwarded to the Comptroller on the specified form required within forty-five (45) days. (as added by Ord. #268, Nov. 2011)

**5-403. Transparency.** (1) All legal requirements for notice and for public meetings related to a debt issuance shall be met as a condition precedent for the issuance of debt. Notices shall be posted in the customary and required posting locations throughout the city, including publication as required in local

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<sup>3</sup>Ordinance 266 (June 14, 2014) adopts various governmental accounting policies and practices and is of record in the recorder's office.

newspapers, posting on public bulletin boards, and on municipal websites.

(2) All costs (including principal, interest, issuance, continuing, and one-time incurred) shall be clearly presented and disclosed to the public, to the board and to others in interest in a timely manner.

(3) The terms and life of each debt issue shall be clearly presented and disclosed to the public, to the board and to others in interest in a timely manner.

(4) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the public, to the board and to others in interest in a timely manner (as added by Ord. #268, Nov. 2011)

**5-404. Role of debt.** (1) Long-term debt shall not be used to finance current operations.

(2) Long-term debt may be used for capital purchases or construction identified through capital improvement, regional development, transportation, and master processes or plans as from time-to-time formulated.

(3) Short-term debt may be used for certain project and equipment financing as well as for operational borrowing; however, the board will minimize the use of short-term cash flow borrowing by maintaining adequate working capital and close budget management. (as added by Ord. #268, Nov. 2011)

**5-405. Issuance term of debt.** In accordance with generally accepted accounting principles and state law,

(1) Maturity of an underlying debt will not be longer than the useful life of the assets being purchased or built with the debt, and in no event to exceed thirty (30) years; provided, however, an exception may be made with respect to federally sponsored loans if such exception is consistent with law and accepted practices.

(2) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #268, Nov. 2011)

**5-406. Types and limits of debt.** (1) The board shall limit the total outstanding debt obligations of the city at any one (1) time to an aggregate of two million five hundred thousand dollars (\$2,500,000.00) excluding overlapping debt, enterprise debt, and revenue debt.

(2) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.

(3) Total outstanding debt obligation of the city shall be monitored and reported to the board by the city recorder at least annually. The city recorder shall monitor maturities, terms and conditions of all obligations to ensure compliance. The city recorder shall also promptly report to the board on any matter that adversely affects the credit or financial integrity of the city.

(4) The city has variously issued in the past and/or is authorized to issue general obligation bonds, revenue bonds, tax increment financing, loans,

notes and other debt allowed by law.

(5) The board will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.

(6) As a rule, debt will not be incurred using backload, wrap-around techniques, balloon payments or other exotic formats to pursue financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, non-level debt methods may be used; provided, however, the use of such methods must be thoroughly discussed in a public meeting and the board must determine such use is justified and in the best interest of the city.

(7) The board may use capital leases to finance short-term projects.

(8) Bonds backed with a general obligation pledges often have lower interest rates than revenue bonds. The board may use a general obligation pledge on the part of the city with a revenue bond issue when the population served by the revenue bond projects an overlap of revenue significantly the same as the property tax base of the city. The board is committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the general funds of the city. (as added by Ord. #268, Nov. 2011)

**5-407. Use of variable rate debt.** (1) The board recognizes the value of variable rate debt obligations in municipal financing benefit exists from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

(2) The board also recognizes there are inherent risks associated with the use of variable rate debt and the board will implement steps to mitigate such risks:

(a) By annually including in the city budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.

(b) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the board will become informed of the potential affect on rates as well as any additional costs that might be incurred should the insurance fail.

(c) Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the board will become informed of the potential affect on rates as well as any additional costs that might be incurred should the letter of credit fail.

(d) Prior to entering into any variable rate debt obligation, the board will become informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.

(e) The board will consult with persons familiar with arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation. (as added by Ord. #268, Nov. 2011)

**5-408. Use of derivatives.** (1) The city shall not use derivative or other exotic financial structures in the management of the city debt portfolio.

(2) Before any reversal of the foregoing provision:

(a) A written management report outlining the potential benefits and consequences of utilizing such structures must be submitted to the board; and

(b) The board must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements which complies with state funding board guidelines. (as added by Ord. #268, Nov. 2011)

**5-409. Costs of debt issuance.** (1) All costs associated with initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the board.

(2) In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded, that is, general obligations bonds in context of the general fund and revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes. (as added by Ord. #268, Nov. 2011)

**5-410. Refinancing outstanding debt.** (1) The city may refund debt when it is in the best financial interest of the city to do so, and the city recorder shall have the responsibility to analyze or cause to be analyzed outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the board and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.

(2) The following issues shall be considered when analyzing possible refunding opportunities:

(a) Elimination of onerous or restrictive covenants contained in existing debt documents or to take advantage of changing financial conditions or interest rates.

(b) When it is in the best financial interest of the city to meet unanticipated revenue expectations, to achieve cost savings, to mitigate irregular debt service payments, and to release reserve funds.

(c) If refunding will generate a positive minimum present value savings.

(d) The refunding is within the term of the originally issued debt; provided, however, a maturity extension may be considered when necessary to achieve a desired outcome if such extension is legally permissible.

(e) A shortened term of the originally issued debt if it will realize greater savings.

(f) The remaining useful life of the financed facility with the concept of inter-generational equity guiding any decision.

(3) The board shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the city from its own account nor shall the city purchase any such escrow securities.

(4) The board shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (as added by Ord. #268, Nov. 2011)

**5-411. Professional services.** (1) All professionals engaged in the process of issuing debt shall be required to clearly disclose all compensation and consideration received which is related to services provided in the debt issuance process paid or to be paid by both the city, the lender or any conduit issuer. This includes so called soft costs or compensations in lieu of direct payments.

(2) An engagement letter agreement shall be entered into with each lawyer or law firm representing the city in a debt transaction; provided, however, no engagement letter shall be required of any lawyer who is an employee of the city or under a general appointment or contract to serve as legal counsel to the city. No engagement letter with counsel shall be required of a lawyer not representing the city such as an underwriters counsel.

(3) If a financial advisor is engaged the city shall enter into a written agreement with each person or firm serving as a financial advisor in debt management and transactions which shall include provision that the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which it is or has been providing advisory services for the issuance.

(4) If there is no financial advisor then in advance of pricing of the debt in a publicly offered, negotiated sale, the underwriter must provide to the board pricing information both as to interest rates and as to take down per maturity.

(5) Professionals involved in a debt transaction hired or compensated by the city shall be required to disclose existing client and business relationships between and among the professionals to the transaction including, but not limited to, financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent, as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include information reasonably sufficient to allow the board to appreciate the significance of the relationships.

(6) Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard electronic bidding platform are not subject to this disclosure. No disclosure will be required that violates any rule

or regulation of professional conduct. (as added by Ord. #268, Nov. 2011)

**5-412. Review of debt policy.** The provisions of this legislation as an established municipal policy shall be reviewed annually by the board during the approval of the annual budget. (as added by Ord. #268, Nov. 2011)

## CHAPTER 5

### PURCHASING AND SALE OF PERSONAL PROPERTY CODE

#### SECTION

- 5-501. Citation.
- 5-502. Definitions.
- 5-503. Purchasing agent.
- 5-504. Powers and duties of mayor.
- 5-505. Available appropriation required.
- 5-506. Gifts and favors prohibited.
- 5-507. Evasion prohibited.
- 5-508. Small leases and purchases; use of purchase orders.
- 5-509. Purchases based on informal bids.
- 5-510. Purchases or leases based on formal bids.
- 5-511. Exceptions.
- 5-512. Waiver based on other government purchases.
- 5-513. Personal property declared surplus.
- 5-514. Personal property valued at less than \$5,000.00.
- 5-515. Personal property valued at \$5,000.00 or more.
- 5-516. Severability.

**5-501. Citation.** This chapter may be referred to as the "McEwen Purchasing and Sale of Personal Property Ordinance 2019" and when enacted and codified as the "Purchasing and Sale of Personal Property Code." (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-502. Definitions.** When used herein the following words, terms, and phrases and their derivations have the meanings ascribed except where the context clearly indicates a different intended meaning:

- (1) "City" means the City of McEwen, Tennessee.
- (2) "Board" means the incumbent board of mayor and aldermen of the city at the time applicable.
- (3) "Mayor" means the incumbent mayor of the city in office at the time applicable.
- (4) "Recorder" means the incumbent recorder of the city in office at the time applicable.
- (5) "City attorney" means the incumbent general outside legal counsel of the city at the time applicable.
- (6) "Contract" means an agreement regardless of form or title which procures or authorized the procurement of personal property by lease or purchase or which authorizes sale, lease or disposal of personal property value.
- (7) "Gift" or "favor" is any tangible or intangible thing or service

having value.

(7) "Personal property" means tangible goods, supplies, apparatus, materials and equipment procured for and owned by the city, but specifically excludes intangible services such as utilities, postage, shipping costs, travel reimbursements, seminars, dues, memberships and subscriptions. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-503. Purchasing agent.** The mayor is designated chief purchasing agent of the city. The mayor by executive order may delegate some or all of the functions and powers as chief purchasing agent to a subordinate city employee. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-504. Powers and duties of mayor.** The mayor as chief purchasing agent acting has the following powers and duties:

(1) Procure or oversee procurement of all personal property needed by the City including effectuating required advertisement and solicitation for procurement thereof.

(2) Consistent with these regulations and applicable general laws of State of Tennessee by executive order adopt operating procedures relating to the lease, purchase or lease-purchase of personal property.

(3) Provide for and oversee development of specifications for personal property to be leased or purchased; administer lease and purchase contracts to which the city is a party; and provide for inspecting, accepting or rejecting of personal property leased or purchased.

(4) Process all claims for loss, damage, breakage or shortage and claims for refund and adjustment concerning leased or purchased personal property.

(5) Exercise general supervision and control over all inventories of personal property and authorize the transfer of use between city departments of any surplus personal property.

(6) Require bonds, insurance and other forms of protection for the city in the process of procuring personal property.

(7) Terminate solicitations for lease, purchase or sale of personal property when in the best interest of the city to do so.

(8) Reject bids or proposals when in the best interest of the city to do so.

(9) Following consultation with the city attorney terminate contracts or pursue other remedies when a party with whom the city is contracting has breached the contract.

(10) Sell surplus personal property as prescribed in these regulations.

(11) Execute on behalf of the city all contracts for purchase, lease or sale of personal property. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-505. Available appropriation required.** No contract for the lease or purchase of personal property will be executed or approved until there is to the credit of the using department or agency a sufficient unencumbered appropriated fund balance in excess of all unpaid obligations which is to defray the amount payable for such any contract for lease or purchase in the then current fiscal year. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-506. Gifts and favors prohibited.** Every officer and employee of the city whose duties involve

(1) Recommendation for purchase, lease or sale of personal property;

(2) Preparation of specifications for the lease or purchase of personal property; or

(3) Deciding which personal property should be declared surplus are expressly prohibited from accepting a gift or favor, directly or indirectly, from any person, company, firm, corporation or other entity which seeks to do business with or contract with the city or who has contracted with the city within the past year, or to whom any purchase order or contract is awarded, or to whom any surplus personal property is sold, except where such gift or favor is given for the sole use and benefit of the city. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-507. Evasion prohibited.** No lease, purchase nor sale of personal property will be divided for the purpose of evading the provisions of these regulations. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-508. Small leases and purchases; use of purchase orders.**

(1) Leases and purchases of personal property involving an estimated expenditure of less than five thousand dollars (\$5,000.00) of public money will not require and may be made without public advertisement or competitive bidding; provided, however, competition should be sought if feasible and written records will be maintained to adequately document competition and account for the funds so expended to facilitate an audit of small purchases being made.

(2) All small leases or purchases will require a written purchase order signed by the mayor or his or her designee. No small lease or purchase will be made by any municipal employee without having procured a prior issued and pre-numbered purchase order. City will not be responsible for payment on a lease or purchase of any small lease or purchase unless the vendor or lessor has received in hand at the time of lease or purchase such pre- numbered purchase order and such number is duly recorded by the lessor or vendor on the sales invoice or lease contract presented to the city for payment. No employee nor other person claiming to be a representative of the city representative will have the authority to make a lease of small purchase without having a duly issued purchase order. Information on the restrictions on authority to make small leases or purchases such as bind the city without a duly issued purchase order

will be disseminated by the recorder to all known regular and re-occurring vendors and lessors to the city and notice thereof will be published at least annual in a newspaper having general circulation in Humphreys County, Tennessee. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-509. Purchases based on informal bids.** All contracts for the lease or purchase of personal property involving the estimated expenditure of five thousand dollars (\$5,000.00) or more of public money, but less than ten thousand dollars (\$10,000.00), may be made without public advertisement, but only after informal bids have been secured. All such contracts will be in writing and will be awarded to the lowest responsible bidder after at least three (3) competitive bids are received whenever possible. The quality and performance of the personal property offered by each bidder and the time specified for delivery may be considered in determining the lowest bid. The recorder will keep a record of all such bids submitted and such record will be available for public inspection after a contract is awarded. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-510. Purchases or leases based on formal bids.** Except as otherwise herein provided a contract for lease or purchase of personal property involving an estimated expenditure of ten thousand dollars (\$10,000.00) or more of public money will not be awarded unless the provisions of this section are followed.

(1) Proposals will be invited by advertisement in a newspaper having general circulation in the city. The advertisement will state the time and place where specifications may be obtained and the time and place for submitting and opening of bid proposals. At least ten (10) full business days must pass between the day the advertisement appears and the day of the bid opening. The advertisement will state that the city reserves the right to reject any or all of the bids. City officers and employees involved in the procurement will strive to procure at least three (3) competitive bids whenever possible and will, if possible, personally contact known vendors to solicit their interest in the bidding.

(2) The mayor may require that bid deposits be submitted with each bid. If bid deposits are required they will be in an amount equal to five percent (5%) of the amount of the bid and may be submitted in the form of cash, cashier's or certified check, bid bond, or any other form of security deemed sufficient by the city attorney. The bid deposit requirement, including the form in which bonds or other forms of bid security may be submitted, will be included in the specifications.

(3) Bids will be sealed. If at least three (3) bids are not received then the bids may be returned to the bidders prior to opening and at the city's option the bid procedure may be repeated.

(4) All bids will be opened in public. The recorder will make a record

of the bids received. The record of the bids received will be subject to public inspection after the bid opening.

(5) The mayor may require a successful bidder to furnish a performance bond to secure the faithful performance of all of the terms of the contract. The performance bond will be in a form approved by the city attorney. The mayor may reject the bond of any bidder if deemed to be unacceptable.

(6) All contracts to which this section applies will be in writing and must be approved by the board. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-511. Exceptions.** (1) The competitive procurement provisions of these regulations do not apply to the lease or purchase of personal property when:

(a) The personal property which is required is available from only one source of supply or when standardization or compatibility is the overriding consideration; or

(b) The lease or purchase is pursuant to a contract of the vendor or lessor with

(i) The United States or the State of Tennessee or

(ii) Any other governmental unit or agency thereof; or

(c) A special emergency exists involving the health and safety of the people or their property.

(2) The mayor will submit to the board a written report concerning any lease or purchase made pursuant to this section. The recorder will keep a record of all leases or purchases made pursuant to this section and such records will be subject to public inspection. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-512. Waiver based on other government purchases.** When the mayor or the board determines that it is in the best interest of the city to do so the requirements of these regulations may be waived for the lease or purchase of personal property from any person or entity which has within the previous twelve (12) months completed a public, formal bid process substantially similar to the criteria prescribed in these regulations and has contracted to furnish the same type of personal property to:

(1) The United States or any federal agency; or

(2) The State of Tennessee or any agency or political subdivision thereof; if the person or entity is willing to furnish the personal property to the city at the same or a more favorable price, terms and conditions as those provided under the contract with the other governmental unit or agency.

(3) A lease or purchase made under this section must be finally approved by the board. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-513. Personal property declared surplus.** When personal property of the city is no longer necessary or useful to the city the board may declare such and order disposal of the same in the manner prescribed in these regulations. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-514. Personal property valued at less than \$5,000.00.** Disposal of surplus personal property valued at less than five thousand dollars (\$5,000.00) will be designed to obtain fair market value for the personal property to be disposed and will accomplish the disposal in an efficient and economical manner. Such disposition may be by private sale or exchange; by auction; by posting on an internet website; by using the personal property as trade-in, credit or part payment on the purchase of other personal property; or by any other manner of disposition that meets the purpose and intent of this section. The recorder will maintain a record that describes generally the personal property disposed of, to whom the personal property was conveyed, and the consideration received for the personal property. The mayor will report to the board concerning dispositions of personal property made pursuant to this section. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-515. Personal property valued at \$5,000.00 or more.** With prior approval by the board, the mayor will dispose of surplus personal property valued at five thousand dollars (\$5,000.00) or more by any of the following methods:

(1) Advertisement for sealed bids. The procedure specified in § 5-510 of these regulations for the lease or purchase of personal property by sealed bids will be used except that the sale will be made to the highest bidder.

(2) Public auction. A notice of a public auction will be published in a newspaper having general circulation in the city at least ten (10) business days prior to the date of the auction. The notice will identify the personal property to be sold and set out the date, time, place, and terms of the sale.

(3) Exchange. An exchange of surplus personal property for other personal property by private negotiation if the city receives full and fair consideration in exchange for its surplus personal property.

(4) Other. By any other lawful means approved by the board when the unusual character of the personal property or unusual circumstances affecting the disposition of the personal property appears to be in the best interest of the city. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

**5-516. Severability.** The provisions of these regulations are declared to be severable. If any section, sentence, clause or phrase for any reason is held to be invalid by a court of competent jurisdiction such decision will not affect the remaining sections, sentences, clauses and phrases of these regulations, but the same will remain in effect. (as added by Ord. #308, Dec. 2019 *Ch 5\_6-9-20*)

## CHAPTER 6

### REAL AND PERSONAL PROPERTY TAX

#### SECTION

6-101. When due and payable.

6-102. When delinquent--penalty and interest.

**6-101. When due and payable.** (1) There is levied for calendar year 2022 beginning on 1 January and ending on 31 December (the "current calendar year"), ad valorem taxes on all taxable real and personal property situated in the municipality not otherwise exempted by law, to be paid by the owner thereof, at the rate of \$0.4799 for each one hundred dollars (\$100.00) of assessed value thereof as determined by the Assessor of Property of Humphreys County, Tennessee.

(2) Said taxes, when collected will be used for corporate purposes as appropriated from time to time.

(3) Said taxes will become due and payable on October 1 of the current calendar year and will become delinquent if not paid before March 1 of the succeeding calendar year. (as added by Ord. #324, July 2022 ***Ch6\_06-13-23***)

**6-102. When delinquent--penalty and interest.** (1) On becoming delinquent and unpaid, the recorder will certify the same to the city attorney who is authorized to initiate and file in the name of and on behalf of the municipality appropriate legal proceedings to collect the same together with statutory interest, penalties, costs and fees and to seek such collection by enforcement of the statutory lien imposed by law on the property on which assessed and may do so by joining in the collection suit as initialed by Humphreys County for collection of those unpaid and delinquent ad valorem taxes levied by Humphreys County on the same property.

(2) In addition thereto for unpaid and delinquents ad valorem personal property taxes, pursuant to § 67-5-2003, Tennessee Code Annotated, the recorder as collector on and after March 1 following of the current calendar year to issue a distress warrant to be levied on the personal property on which such taxes are assessed and the officer executing the same will take possession thereof and after due notice to the owner thereof and after due advertisement and public notice will cause such personal property to be sold at public outcry with the proceeds therefrom applied to payment of the taxes and interest, penalties and fees accrued thereon. (as added by Ord. #324, July 2022 ***Ch6\_06-13-23***)

## TITLE 6

### LAW ENFORCEMENT<sup>1</sup>

#### CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

#### CHAPTER 1

### POLICE<sup>2</sup> AND ARREST<sup>3</sup>

#### SECTION

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance in making arrests.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.

**6-101. Policemen subject to chief's orders.** All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1970 Code, § 1-401)

**6-102. Policemen to preserve law and order, etc.** Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1970 Code, § 1-402)

**6-103. Policemen to wear uniforms and be armed.** All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1970 Code, § 1-403)

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<sup>1</sup>Municipal code reference  
Emergency assistance: title 20.

<sup>2</sup>Charter references: §§ 8, 12, 13, 14, 15, and 23.

<sup>3</sup>Municipal code reference  
Traffic citations, etc.: title 15, chapter 7.

**6-104. When policemen to make arrests.**<sup>4</sup> Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1970 Code, § 1-404)

**6-105. Policemen may require assistance in making arrests.** It shall be unlawful for any male person to willfully refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1970 Code, § 1-405)

**6-106. Disposition of persons arrested.** Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1970 Code, § 1-406)

**6-107. Police department records.** The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1970 Code, § 1-407)

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<sup>4</sup>Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

**CHAPTER 2****WORKHOUSE****SECTION**

- 6-201. County workhouse to be used.
- 6-202. Inmates to be worked.
- 6-203. Compensation of inmates.

**6-201. County workhouse to be used.** The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1970 Code, § 1-601)

**6-202. Inmates to be worked.** All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1970 Code, § 1-602)

**6-203. Compensation of inmates.** Each workhouse inmate shall be allowed two dollars (\$2.00) per day as credit toward payment of the fines and costs assessed against him. (1970 Code, § 1-603)

**TITLE 7**

**FIRE PROTECTION AND FIREWORKS<sup>1</sup>**

**CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.

**CHAPTER 1**

**FIRE DISTRICT**

**SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The corporate fire limits shall include the property and structures thereupon abutting Main Street and extending therefrom a depth of one hundred (100) feet between the intersections of Main Street with Long Street and the CSX Railroad. (1970 Code, § 7-101, modified)

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Emergency assistance: title 20.

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Available in the recorder's office.
- 7-204. Violations and penalty.
- 7-205.–7-207. Deleted.

**7-201. Fire code adopted.** (1) The 2015 ICC Fire Code is adopted. All of the terms and provisions thereof are incorporated by reference to be henceforth in force and effect within McEwen. All prior editions of fire and fire safety codes including the 2012 edition as adopted by ordinance number 262 are hereby superseded. All subsequent changes, revisions, updates, and amendments to the 2015 ICC Fire Code<sup>2</sup> hereafter promulgated by the International Code Council and duly published shall be deemed adopted by reference and shall be in force and effect in the municipality when a copy thereof is filed with the recorder unless within thirty (30) days after such filing the board of mayor and aldermen rejects, modifies or revises such subsequent change, revision, update or amendment.

(2) The 2015 NFPA 101 Life Safety Code<sup>3</sup> is adopted and incorporated by reference for and to be in effect within the municipality as a part of the McEwen Municipal Code; provided, however, the following provisions of the Revised ICC Codes to the extent contained in any thereof are modified as follows:

- (a) Sprinkler systems will not be mandatory to be installed in one and two family dwellings and townhouses and
- (b) A townhouse will be considered to be a separate building and will have independent exterior walls to be separated by a two-hour fire-resistance rated wall assembly. (1970 Code, § 7-201, as amended by Ord. #170, June 1995, and Ord. #262, Feb. 2011, replaced by Ord. #282, April 2015, and amended by Ord. #318, Nov. 2022 **Ch6\_06-13-23**)

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<sup>1</sup>Municipal code reference  
Addition ICC Codes: title 12.

<sup>2</sup>Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

<sup>3</sup>Copies of this code may be purchased from the National Fire Protection Association, 1 Battery March Park, Quincy, Massachusetts 02269-9101.

**7-202. Enforcement.** Whenever in the 2015 ICC Fire Code reference is made to an official of the municipality responsible for enforcing the provisions of the 2015 ICC Fire Code that official shall be individuals appointed and/or designated from time-to-time as codes and building inspectors and/or as fire chief. (1970 Code, § 7-202, as replaced by Ord. #282, April 2015, and amended by Ord. #318, Nov. 2022 *Ch6\_06-13-23*)

**7-203. Available in the recorder's office.** One (1) copy of the 2015 ICC Fire Code together with any subsequent change, revision, update and amendment and one (1) copy of the 2015 NFPA 101 Life Safety Code, shall be and remain on continuous file in the office of the Recorder of McEwen available for use and inspection by the public during regular business hours. (1970 Code, § 7-203, as replaced by Ord. #282, April 2015, Ord. #318, Nov. 2022 *Ch6\_06-13-23*)

**7-204. Violations and penalty.** It shall be unlawful for any person, firm, corporation or other entity (hereinafter referred to as "violator") to violate or fail to comply with any provision of the fire codes herein adopted and upon conviction thereof by the municipal court the violator shall pay a fine or penalty not to exceed fifty dollars (\$50.00) as the court shall assess. Each day of violation shall be deemed a separate offense. (1970 Code, § 7-204, as replaced by Ord. #282, April 2015, as amended by Ord. #318, Nov. 2022 *Ch6\_06-13-23*)

**7-205.-7-207. [Deleted].** (1970 Code, §§ 7-205 to 7-207, as deleted by Ord. #282, April 2015)

## CHAPTER 3

### FIRE DEPARTMENT<sup>1</sup>

#### SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Tenure and compensation of members.

7-306. Chief responsible for training.

7-307. Chief to be assistant to state officer.

**7-301. Establishment, equipment, and membership.** There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and aldermen of the municipality. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall be and remain the property of the municipality. The fire department shall be composed of a chief appointed by the mayor and such number of physically-fit subordinate officers and firemen as the chief shall appoint. (1970 Code, § 7-301)

**7-302. Objectives.** The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1970 Code, § 7-302)

**7-303. Organization, rules, and regulations.** The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1970 Code, § 7-303)

**7-304. Records and reports.** The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters

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<sup>1</sup>Municipal code reference

Special privileges with respect to traffic: title 15, chapter 2.

to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1970 Code, § 7-304)

**7-305. Tenure and compensation of members.** The chief shall hold office so long as his conduct and efficiency are satisfactory to the board of mayor and aldermen. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the board of mayor and aldermen.<sup>1</sup>

All personnel of the fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1970 Code, § 7-305)

**7-306. Chief responsible for training.** The chief of the fire department, shall be fully responsible for the training of the firemen, and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1970 Code, § 7-306)

**7-307. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1970 Code, § 7-308)

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<sup>1</sup>Charter reference: § 25.

## CHAPTER 4

### FIRE SERVICE OUTSIDE CITY LIMITS

#### SECTION

7-401. Equipment to be used only within corporate limits.

**7-401. Equipment to be used only within corporate limits.** No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless the fire is on city property or, in the opinion of the mayor or chief of the fire department, is in such hazardous proximity to property owned by or located within the city as to endanger the city property or unless expressly authorized in writing by the board of mayor and aldermen. (1970 Code, § 7-307)

**TITLE 8****ALCOHOLIC BEVERAGES**<sup>1</sup>**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1****INTOXICATING LIQUORS****SECTION**

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except when he is lawfully acting pursuant to the authority of an applicable state law<sup>2</sup>, it shall be unlawful for any person, acting for himself or for any other person, to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this municipality. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1970 Code, § 2-101)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference  
Tennessee Code Annotated, title 39, chapter 17.

## CHAPTER 2

### BEER<sup>3</sup>

#### SECTION

- 8-201. "Beer" defined.
- 8-202. Permit required for engaging in beer business; application therefor; collection of application fee.
- 8-203. Beer permits shall be restrictive.
- 8-204. Issuance of permits to aliens prohibited.
- 8-205. Interference with public health, safety, and morals prohibited.
- 8-206. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-207. Prohibited conduct or activities by beer permit holders.
- 8-208. Privilege tax.
- 8-209. Civil penalty in lieu of revocation or suspension.
- 8-210. Revocation of beer permits.
- 8-211. Beer permit board.
- 8-212. Loss of certification for sale to minor.
- 8-213. Signage requirements of permittees.

**8-201. "Beer" defined.** The term "beer" as used in this chapter means and includes all beers, ales and other malt beverages or any other beverage having an alcoholic content of not more than eight percent (8%) by weight; provided, however, no more than forty-nine percent (49%) of the overall alcoholic content of such beverages may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (1970 Code, § 2-201, as replaced by Ord. #325, Dec. 2022 *Ch6\_06-13-23*)

**8-202. Permit required for engaging in beer business; application therefor; collection of application fee.** (1) It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the board of mayor and aldermen.

(2) The application shall be made on such form as the board of mayor and aldermen shall prescribe and/or furnish and shall be accompanied by a non-refundable fee in the amount of two hundred fifty dollars (\$250.00) to cover the cost of administration and for investigation of the applicant. A separate application and payment of a separate fee shall be required for each location for

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<sup>3</sup>State law reference

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

which the applicant shall seek a permit and a separate permit shall be held by an applicant for each and all locations where such applicant seeks to sell, store for sale, distribute for sale, or manufacture beer as authorized in this chapter.

(3) Each application shall be accompanied by and there shall remain in full force and effect during all times that a permit shall be outstanding a bond in the penal amount of \$2,000 in favor of the Board of Mayor and Aldermen of the City of McEwen, Tennessee, conditioned that the applicant and permittee shall at all times be lawfully engaged in the sale, storage for sale, distribution for sale, or manufacture of beer pursuant to the permit granted to such applicant and shall at all times operate pursuant to the provisions of and in accordance with the McEwen Municipal Code and the laws of the State of Tennessee and in default thereof such amount to be recoverable by the city. Such bond shall be made by the applicant with two good and solvent sureties as may be approved by the board of mayor and aldermen.

(4) Every person granted a permit pursuant to this chapter shall be a person of good moral character and the applicant shall certify on the application that he or she has read and is familiar with the provisions of this chapter. (1970 Code, § 2-202, as amended by Ord. #167, Jan. 1994)

**8-203. Beer permits shall be restrictive.** (1) All beer permits shall be restrictive as to the type of beer business authorized under an issued permit.

(2) Beer permits for the retail sale of beer may be for either off-premises consumption or for on-premises consumption.

(3) Beer permits for on-premises consumption will only be issued to a restaurant which derives at least seventy-five percent (75%) of its gross sales revenue from the sale of food. In no event will a retail permit issue to an applicant for on-premises consumption of beer at a bar, tavern, beer joint, honky tonk, or dance hall nor to operate any business of any kind where twenty-five percent (25%) or more of gross annual revenue is derived from sale of beer.

(4) No restaurant having a permit for on-premises consumption will be allowed to sell beer to go, or for pick up or to at patron purchasing beer to on leaving the establishment.

(5) No holder of a permit to sell beer for on-premises consumption will allow dancing, billiard playing, video and digital game machines, pinball, or juke boxes on the premises; provided, however, live musical performances will be allowed.

(6) No permit holder will engage in any type or phase of beer business not expressly allowed under the permit issued.

(7) Sale of beer by permit holders for off-premises consumption will be allowed seven (7) days per week without limitation as to daily hours.

(8) Sale of beer by permit holders for on-premises consumption will be allowed seven (7) days per week between the hours of 11:00 o'clock A.M. and 11:00 P.M. (1970 Code, § 2-203, as replaced by Ord. #325, Dec. 2022  
*Ch6\_06-13-23*)

**8-204. Issuance of permits to aliens prohibited.** No permit to sell beer shall be granted to a natural person who is not a citizen of the United States nor who has not been a lawful resident of the United States for at least one (1) year immediately preceding the date of application for a permit nor to a nonnatural person such as a privately held corporation, limited liability company, syndicate, partnership or other similar form of organization unless all members, interest holders and beneficiaries thereof meet said citizenship and residency requirements; provided, however, such citizenship and residency requirement will not apply to an applicant whose shares or ownership interests are publically traded. (1970 Code, § 2-204, as replaced by Ord. #325, Dec. 2022, *Ch6\_06-13-23*)

**8-205. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. (1970 Code, § 2-205, as replaced by Ord. #325, Dec. 2022, *Ch6\_06-13-23*)

**8-206. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (1970 Code, § 2-206)

**8-207. Prohibited conduct or activities by beer permit holders.**  
It shall be unlawful for any beer permit holder to:

(1) Employ any person who shall have been convicted for any violation of the intoxicating liquor laws or of any crime involving moral turpitude.

(2) Employ any person in connection with the sale, storage, distribution or manufacture of beer who shall be under the age of eighteen (18) years.

(3) Make or allow a sale of beer to a person under twenty-one (21) years of age.

(4) Allow any person to loiter in or about his or her or its place of business who shall be under the minimum age as may be prescribed by the general laws of the State of Tennessee to purchase beer.

(5) Make or allow any sale of beer to any intoxicated person or to any feeble minded, insane, or otherwise mentally incapacitated person.

(6) Allow drunk or disruptable persons to loiter about his or her or its premises.

(7) Allow dancing on his or her or its premises.

(8) Allow pool or billiard playing or the playing of pinball or video game machines in the same room on his or her or its premises where beer is

sold. (1970 Code, § 2-207, modified, as amended by Ord. #250, Feb. 2008, Ord. #252, June 2008, and Ord. #325, Dec. 2022 *Ch6\_06-13-23*)

**8-208. Privilege tax.** There is hereby imposed and levied upon every holder of a permit issued pursuant to title 8, chapter 2 of the McEwen Municipal Code an annual privilege tax of one hundred dollars (\$100.00). Such tax shall be remitted and paid to the recorder, without proration, at the time of the payment of a required permit application fee. If the permit is not granted the tax as paid shall be refunded in full. The holder of a permit on December 31 of any calendar year as a condition for retaining such permit for the succeeding calendar year shall pay such annual privilege tax to the recorder no later than the 10th day of January following. Upon payment the same shall be non-refundable. Failure to pay such annual privilege tax by the due date shall result in the immediate suspension of any existing permit held by such permit holder and upon due notice the permit shall be revoked. (Ord. #167, Jan. 1994)

**8-209. Civil penalty in lieu of revocation or suspension.**

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification pursuant to Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. At the time it imposes a revocation or suspension the board may offer a permit holder who is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made a sale to a minor or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

(3) If a civil penalty is initially imposed on a responsible vendor pursuant to § 8-210(2) or is offered and accepted as an alternative to revocation or suspension pursuant to § 8-209(2) the permit holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension goes into effect. If the civil penalty is paid within that time an order of revocation or suspension shall be deemed withdrawn.

(4) Payment of a civil penalty pursuant to § 8-210 by a permit holder shall be an admission of the violation as charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #167, Jan. 1994, as replaced by Ord. #250, Feb. 2008)

**8-210. Revocation of beer permits.** (1) The board of mayor and aldermen shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board of mayor and aldermen after reasonable

notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the board of mayor and aldermen.

(2) The board shall not immediately revoke nor suspend the permit of a vendor who is qualified under the requirements of Tennessee Code Annotated, § 57-5-606, whose status as a certified responsible vendor has not been revoked, for a violation of this chapter when committed by a person then properly certified and who has attended annual meetings since his or her original certification, but shall impose a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense. (1970 Code, § 2-208, as amended by Ord. #250, Feb. 2008)

**8-211. Beer permit board.** To exercise the authority of the board of mayor and alderman relative to issuance, revocation and suspensions of beer permits and imposition of civil penalties relative thereto in lieu of suspensions, but not for the purpose of adopting rules or regulations relative to engaging in beer business within the municipal corporation, there is established the "McEwen Beer Permit Board" to consist of three (3) persons resident of the municipal corporation. Such members shall be appointed by the mayor and confirmed by the board of aldermen. Members shall serve at the pleasure of the mayor. Members shall not engage, directly or indirectly, in the beer business. Decisions of the McEwen Beer Permit Board shall not be reviewed by the board of mayor and alderman, but review thereof shall be as otherwise provided by law from final decisions of the board of mayor and alderman relative to granting, revoking or suspending of beer permits. (as added by Ord. #227, Sept. 2003)

**8-212. Loss of certification for sale to minor.** If the board determines that a clerk of an off-premises beer permit holder who is certified under Tennessee Code Annotated, § 57-5-606 has sold beer to a minor, the chief of police shall report the name of the clerk to the state alcoholic beverage commission within fifteen (15) days of such determination. The certification of the clerk shall be invalid and the clerk may not reapply for a new certification for a period of one (1) year from the date of such determination. (as added by Ord. #250, Feb. 2008)

**8-213. Signage requirements of permittees.** Permit holders shall at all times:

(1) Have posted a clearly visible eight and one-half inch by five and one-half inch (8 1/2" x 5 1/2") sign that reads as follows: "If You Aren't 21 and Are In Possession of Beer, You Could Lose Your Driver's License;" and

(2) Have posted a clearly visible sign eight and one-half inch by eleven inch (8 1/2" x 11") sign that shall read as follows: "State Law Requires Identification For The Sale of Beer." (as added by Ord. #250, Feb. 2008)

**TITLE 9****BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. CABLE TELEVISION.
7. CITY OF MCEWEN CABLE TELEVISION CODE OF 1982.
8. TELECOMMUNICATIONS REGULATIONS.
9. MOBILE FOOD VENDORS.

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

9-101. "Going out of business" sales.

**9-101. "Going out of business" sales.** It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1970 Code, § 5-101)

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<sup>1</sup>Municipal code references

Building, plumbing, wiring and housing regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

## CHAPTER 2

### PEDDLERS, ETC.<sup>2</sup>

#### SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

**9-201. Permit required.** It shall be unlawful for any peddler, canvasser, or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1970 Code, § 5-201)

**9-202. Exemptions.** The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1970 Code, § 5-202)

**9-203. Application for permit.** Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

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<sup>2</sup>Municipal code reference  
Privilege taxes: title 5.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to evaluate properly the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of fifty dollars (\$50.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1970 Code, § 5-203, as amended by Ord. #172, June 1995)

**9-204. Issuance or refusal of permit.** (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1970 Code, § 5-204)

**9-205. Appeal.** Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3)

days prior to the date set for hearing. (1970 Code, § 5-205)

**9-206. Bond.** Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1970 Code, § 5-206)

**9-207. Loud noises and speaking devices.** No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1970 Code, § 5-207)

**9-208. Use of streets.** No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1970 Code, § 5-208)

**9-209. Exhibition of permit.** Permittees are required to exhibit their permits at the request of any policeman or citizen. (1970 Code, § 5-209)

**9-210. Policemen to enforce.** It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1970 Code, § 5-210)

**9-211. Revocation or suspension of permit.** (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1970 Code, § 5-211)

**9-212. Reapplication.** No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1970 Code, § 5-212)

**9-213. Expiration and renewal of permit.** Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1970 Code, § 5-213)

## CHAPTER 3

### CHARITABLE SOLICITORS

#### SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.

**9-301. Permit required.** No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1970 Code, § 5-301)

**9-302. Prerequisites for a permit.** The recorder shall issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

- (1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.
- (2) The control and supervision of the solicitation will be under responsible and reliable persons.
- (3) The applicant has not engaged in any fraudulent transaction or enterprise.
- (4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.
- (5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1970 Code, § 5-302)

**9-303. Denial of a permit.** Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1970 Code, § 5-303)

**9-304. Exhibition of permit.** Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1970 Code, § 5-304)

## CHAPTER 4

### TAXICABS<sup>3</sup>

#### SECTION

- 9-401. Taxicab permit and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance or bond required.
- 9-404. Revocation or suspension of permit.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.

**9-401. Taxicab permit and privilege license required.** It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab permit from the municipality and has a currently effective privilege license. (1970 Code, § 5-401)

**9-402. Requirements as to application and hearing.** No person shall be eligible to apply for a taxicab permit if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab permits shall be made under oath and in writing to the board of mayor and aldermen. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the board of mayor and aldermen may require.<sup>4</sup> The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the board of mayor and aldermen

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<sup>3</sup>Municipal code reference  
Privilege taxes: title 5.

<sup>4</sup>Charter reference: § 17.

shall make a thorough investigation of the applicant and determine if there is a public need for additional taxicab services. The board of mayor and aldermen shall thereupon hold a public hearing at which time witnesses for and against the granting of the permit shall be heard. In deciding whether or not to grant the permit the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional permit. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1970 Code, § 5-402)

**9-403. Liability insurance or bond required.** No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount equal to that required by the state financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1970 Code, § 5-403)

**9-404. Revocation or suspension of permit.** The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab permit for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1970 Code, § 5-404)

**9-405. Mechanical condition of vehicles.** It shall be unlawful for any person to operate any taxicab in the municipality unless it is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1970 Code, § 5-405)

**9-406. Cleanliness of vehicles.** All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1970 Code, § 5-406)

**9-407. Inspection of vehicles.** All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1970 Code, § 5-407)

**9-408. License and permit required for drivers.** No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the recorder. (1970 Code, § 5-408)

**9-409. Qualifications for driver's permit.** No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the board of mayor and aldermen:

- (1) Makes written application to the board of mayor and aldermen.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving,<sup>5</sup> driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1970 Code, § 5-409)

**9-410. Revocation or suspension of driver's permit.** The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1970 Code, § 5-410)

**9-411. Drivers not to solicit business.** All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1970 Code, § 5-411)

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<sup>5</sup>Charter reference: § 17.

**9-412. Parking restricted.** It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1970 Code, § 5-412)

**9-413. Drivers to use direct routes.** Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1970 Code, § 5-413)

**9-414. Taxicabs not to be used for illegal purposes.** No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1970 Code, § 5-414)

**9-415. Miscellaneous prohibited conduct by drivers.** It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1970 Code, § 5-415)

**9-416. Transportation of more than one passenger at the same time.** No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1970 Code, § 5-416)

## CHAPTER 5

### POOL ROOMS<sup>6</sup>

#### SECTION

9-501. Prohibited in residential areas.

9-502. Hours of operation regulated.

9-503. Minors to be kept out; exception.

**9-501. Prohibited in residential areas.** It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1970 Code, § 5-501)

**9-502. Hours of operation regulated.** It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire except on the days and during the hours as follows:

<u>DAYS OF WEEK</u>	<u>PERMITTED HOURS OF OPERATION</u>
Mondays	6:00 A.M. - 11:00 P.M.
Tuesdays	6:00 A.M. - 11:00 P.M.
Wednesdays	6:00 A.M. - 11:00 P.M.
Thursdays	6:00 A.M. - 11:00 P.M.
Fridays	6:00 A.M. - 12:00 midnight
Saturdays	6:00 A.M. - 12:00 midnight
Sundays	1:00 P.M. - 11:00 P.M.

It shall be conclusively presumed that a person is conducting and operating pool tables or billiard tables if persons other than the owner, operator or their employees are in the building or place during hours not herein permitted. Any person who conducts or operates a place where pool tables or billiard tables are kept for public use or hire shall shut and lock the doors to the premises and have all patrons expelled therefrom by the daily closing hour as herein established. (1970 Code, § 5-502)

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<sup>6</sup>Charter reference: § 16.  
Municipal code reference  
Privilege taxes: title 5.

**9-503. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1970 Code, § 5-503)

**CHAPTER 6****CABLE TELEVISION****SECTION**

9-601. To be furnished under franchise.

**9-601. To be furnished under franchise.** Cable television service shall be furnished to the City of McEwen and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of McEwen and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>7</sup>

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<sup>7</sup>For complete details relating to the cable television franchise agreement see Ords. #124, 185, 193, and 194 in the office of the city recorder.

**CHAPTER 7****CITY OF McEWEN CABLE TELEVISION CODE OF 1982****SECTION**

- 9-701. Short title.
- 9-702. Definitions.
- 9-703. Grant of exclusive authority.
- 9-704. Compliance with applicable laws and ordinances.
- 9-705. Area of franchise coverage.
- 9-706. Regulation by other agency.
- 9-707. Liability and indemnification.
- 9-708. Color TV.
- 9-709. Signal quality requirements.
- 9-710. Operation and maintenance of system.
- 9-711. Carriage of signals.
- 9-712. Program alternation.
- 9-713. Commencement of construction.
- 9-714. Conformity with superior authority.
- 9-715. Other services required.
- 9-716. Other business activities.
- 9-717. Safety requirements.
- 9-718. Amendments and supplemental agreements.
- 9-719. Conditions of street occupancy.
- 9-720. Preferential or discriminatory practices prohibited.
- 9-721. Removal of facilities upon request.
- 9-722. Transfer of franchise.
- 9-723. Change of control of company.
- 9-724. Filings and communications with regulatory agency.
- 9-725. City rights and the franchise.
- 9-726. Maps, plats and reports.
- 9-727. Payment to the city.
- 9-728. Forfeiture of franchise.
- 9-729. City's right of intervention.
- 9-730. Further agreement and waiver by company.
- 9-731. Duration and acceptance of franchise.
- 9-732. Rates and charges.
- 9-733. Procedure for granting of a franchise.

**9-701. Short title.** This chapter shall be known and may be cited as the "City of McEwen Cable Television Code of 1982" (hereinafter called the "code"). (1970 Code, § 5-601)

**9-702. Definitions.** For the purpose of this code the following terms, phrases and words shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include plural number. The word "shall" is always mandatory and not merely directory.

(1) "City" is the City of McEwen, Tennessee, a municipal corporation incorporated under the name and style of the Board of Mayor and Aldermen of McEwen.

(2) "Company" is the person granted any rights under this code of way of franchise.

(3) "Franchise" is the rights granted to the company by the board of mayor and aldermen of the city under the terms of this code and the agreement thereby entered into by and between the city and the company according to the terms of this code.

(4) "Board" is the board of mayor and aldermen of the city.

(5) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(6) "Cable system" or "Cable television system" means a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to transmit or receive television or radio signals originated directly or indirectly or taken off the air and to transmit them to subscribers for a fee.

(7) "Corporate limits" shall include all areas lying within the corporation boundaries or limits of the city as now exist or as from time-to-time increased by annexation or other legal methods.

(8) "Federal Communications Commission" or "FCC" is the federal commission or agency created pursuant to the acts of congress.

(9) "Channels" shall mean a group of frequencies in the electro-magnetic spectrum capable of carrying an audio-data or an audio-video television signal. Each channel is a block of frequencies containing six MHz band width.

(10) "Subscriber" or "customer" shall mean any person who has paid to the company the prescribed charges for the services provided by the company pursuant to the franchise.

(11) "Distant signals channel" means the channel or channels on the cable system designated to carry signals from stations located outside any mandatory carriage area as defined by the FCC. (1970 Code, § 5-602)

**9-703. Grant of exclusive authority.** (1) The city shall have the power by ordinance of the board to grant to the company, subject to the right of amendment as hereinafter provided, the right and privilege under this code to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof and additions thereto, in the corporate

limits, such poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the city of a cable system for the interception, sale, and distribution of television and radio signals and to operate in the city a cable system for the inception, sale and distribution of television and radio signals, television energy and other incidental services, including background music and closed circuit television and programs recorded on film, television tape or otherwise, original productions, or signals from the subscriber back to any other central source, all upon the limitations, terms, and conditions contained in this code, as the same may be from time-to-time amended by the board.

(2) The right to use and occupy said streets, alleys, public ways and places for the purposes above set forth in § 9-703(1) shall be exclusive to the company when granted by the city. (1970 Code, § 5-603)

**9-704. Compliance with applicable laws and ordinances.** The company, at all times during the life of the franchise, shall be subject to all lawful exercise of the police power by the city and to such reasonable regulations under this code as the city shall hereafter by resolution or ordinance provide. Unless otherwise prohibited by state or federal law, or, where jurisdiction has been or shall be conferred upon a state or federal commission, board or body, the city reserves the right by ordinance or resolution to regulate such cable system as to pole attachment fees, if any; rates and charges to be paid by the subscribers for the service; the quality of service to be provided subscribers; the rate of construction of facilities so as to serve the territorial area of the franchise; to promulgate rules and regulations and necessary other supervisory procedures to assure prompt completion of the cable system and to provide service for all citizens of the city wherever located; to set a schedule of construction that will attain the said completion of such cable system; and to adopt such other rules and regulations it may now or hereafter lawfully impose in keeping with and not in conflict with applicable state law, or the lawful rules and/or regulations heretofore or hereafter adopted by any federal commission, board or body and/or any lawful state rules and/or regulations lawfully adopted by any state commission, board or body. (1970 Code, § 5-604)

**9-705. Area of franchise coverage.** The franchise relates to the corporate limits of the city. (1970 Code, § 5-605)

**9-706. Regulation by other agency.** The company, its successors and assigns, and the cable system which it or its successors or assigns operate, shall be subject to lawful regulations heretofore or hereafter adopted by the Federal Communications Commission and made applicable to the company and should the company now be or hereafter become subject to the jurisdiction of any other commission then also to the lawful rules and regulations adopted by such commission and also to the lawful rules and regulations adopted by any similar

federal commission or state regulatory body, having jurisdiction. If the company, its successors or assigns, shall fail to comply with any federal and/or state statute, rule, regulation, order or condition lawfully required or imposed under federal law by any federal regulatory body and/or any rule, regulation, order or condition lawfully required or imposed by any state regulatory body and/or any rule, regulation, order or condition lawfully required or imposed by the city and/or any valid applicable ordinance of the city, then the city shall have the right to terminate or cancel the franchise after written notice to the company to correct such failure or default and such failure or default shall have continued for a period of time specified in such notice, but not less than thirty (30) days. (1970 Code, § 5-606)

**9-707. Liability and indemnification.** (1) The company shall pay all damages and penalties that the city may legally be required to pay as a result of the city granting the franchise or any operation hereunder. Such damages or penalty shall include damages arising out of the installation, operation or maintenance of the cable system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise.

(2) The company shall pay all expenses incurred by the city in defending itself with regard to all damages and penalties mentioned in § 9-707(1) above. Such expenses shall include all expenses, including attorney's fees of city, and shall also include the reasonable value of any services rendered by the city attorney or any employees of the city.

(3) The company shall maintain throughout the term of the franchise, comprehensive all-risks general liability insurance insuring the city and the company with regard to all damages mentioned § 9-707(1) and § 9-707(2) above in the minimum amount of \$300,000 for all risks.

(4) The company shall maintain at its own cost until the construction of the cable system has been completed pursuant to the franchise a performance bond in favor of the city, written by a surety company to be approved by the board or its designee, in a form which shall be approved by the city attorney, in a company qualified to do business in the State of Tennessee in a penal sum of \$50,000.00 conditioned that the company shall well and truly observe, fulfill and perform each term and condition of any franchise granted to it. Said bond shall be kept in effect during such required time and on file with the city recorder of city.

(5) Said insurance policy or policies obtained by the company in compliance with this section must at all times be kept in full force and effect and such insurance policy or policies along with written evidence of payment of the required premiums, shall be filed and maintained with the city recorder of city at all times during the term of the franchise.

(6) No policy or bond shall be in any manner altered, changed or substituted until at least thirty (30) days prior notice in writing shall have been given to the city by the company and/or its insurance and/or bonding company.

(1970 Code, § 5-607)

**9-708. Color TV.** The facilities used by the company shall be capable of distributing color television signals, and when the signals the company distributes are received in color they shall be distributed to subscribers in color. (1970 Code, § 5-608)

**9-709. Signal quality requirements.** The company shall comply with the standard required by the Federal Communications Commission as time-to-time amended and further the company shall:

(1) Deliver a picture, whether in black and white or in color, that is undistorted, free from ghost images, and accompanied with proper sound on typical standard production television sets in good repair, and deliver a picture as good as the state of the art are from time-to-time allows; provided, however, that nothing herein shall prohibit the use of tape for cable casting on public access and educational channels.

(2) Transmit signals of adequate strength to produce good pictures with good sound at all outlets without causing cross modulation in the cable or interfering with other electrical or electronic systems.

(3) Limit failures to a minimum by locating and correcting malfunctions properly and promptly, but in no event longer than seventy-two (72) hours after notice unless prevented by an act of God.

(4) Demonstrate by instruments to city, or its designee, that a signal of adequate strength and quality is being delivered. (1970 Code, § 5-609)

**9-710. Operation and maintenance of system.** (1) The company shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall occur during period of minimum use of cable system.

(2) The company shall maintain an office in Humphreys County, Tennessee which shall be open during all usual business hours, have a listed telephone and be so operated that complaints and requests for repairs or adjustments may be received at any time when any television signals are being broadcast. The company shall respond to all service calls within twenty-four (24) hours and correct malfunctions as promptly as possible, but in all events within seventy-two (72) hours after notice thereof unless prevented by an act of God. For that purpose, the company shall maintain a competent staff of employees sufficient to provide adequate and prompt service to its subscribers. The company shall keep a record of all complaints from subscribers identifying the subscriber, his address, location, date of complaint, and disposition of complaint.

(3) The company shall extend its cable television system throughout the city as rapidly as practicable. Within one (1) year from the latest date of either the issuance or any certificate of compliance by the Federal

Communications Commission or the necessary agreements with utility companies pertaining to pole usage and the preparation by the utility companies of their pole plans for the use by the company, the cable television system of company shall be capable of providing basic service to every dwelling unit within the corporate limits within sixty (60) days of a person making an application for service.

(4) The city reserves the right by ordinance or resolution to set up a system and provide personnel to regulate the actions of the company in the performance of its duty and responsibilities provided in this code and the franchise. (1970 Code, § 5-610)

**9-711. Carriage of signals.** The company shall receive and distribute television signals which are disseminated to the general public by broadcasting stations licensed by the Federal Communications Commission, and shall distribute such other signals authorized under this code or permitted under FCC regulations. All FCC regulations shall be observed regarding the carriage of the programming of any existing or future television broadcasting station which covers the city including federal rules and regulations regarding the picking up of distant or other signals. The company shall carry all television stations reasonably broadcasting in the city and also such distant signal channel stations which the company elects to carry under FCC regulations now or hereafter in effect. (1970 Code, § 5-611)

**9-712. Program alternation.** All programs of broadcasting stations carried by the company shall be carried in their entirety as received with announcements and advertisements and without additions or deletions except as may be allowed by the FCC or other regulatory agency, or as otherwise lawfully directed by the city. (1970 Code, § 5-612)

**9-713. Commencement of construction.** Within sixty (60) days from the effective date of the franchise the company will apply for all necessary utility permits, private easements, and FCC authorization and shall begin engineering and construction of the cable system. (1970 Code, § 5-613)

**9-714. Conformity with superior authority.** Nothing herein shall be enforced where it is in conflict with any lawful rule, regulation or order of any federal commission, board or body or any state commission, board or body, or in conflict with any federal or state statute. In the event of such conflict, the provisions hereof shall be considered as amended by such lawful rule, regulation or order of said federal commission, board or body or state commission, board or body or federal or state statutes and the same shall be enforced as so amended. (1970 Code, § 5-614)

**9-715. Other services required.** (1) In the event the company shall

at any time institute and originate any local programming then the company shall provide, without charge and subject to the rules and regulations of the Federal Communications Commission, public emergency broadcast capabilities whereby the city can interrupt service on a designated channel in order to make such public emergency broadcasts as it deems necessary.

(2) The cable system shall be designed for two-way capability; provided however, the company shall expand the channel capacity of the cable system to fulfill the needs of its subscribers in the manner prescribed by the FCC. (1970 Code, § 5-615)

**9-716. Other business activities.** (1) The company shall not engage in the business of selling television receivers, radio receivers or accessories within the city during the term of the franchise.

(2) The franchise shall authorize only the operation of a cable system as provided for herein, and does not take the place of any other franchise, license or permit which might be required by law of the company. (1970 Code, § 5-616)

**9-717. Safety requirements.** (1) The company shall at all times employ ordinary care and shall install and maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries and nuisances to the public.

(2) The company shall install and maintain its wires, cables, fixtures and other equipment in accordance with the current requirements of any codes that may be from time-to-time adopted by the city.

(3) All structures and all lines, equipment and connections of the company in, over, under and upon the streets, sidewalks, alleys and public ways or places of the city, wherever situated or located, shall at all times be kept and maintained in a safe, suitable and substantial condition, and in good order and repair by the company.

(4) The company shall maintain a force of one or more resident agents or employees within Humphreys County, Tennessee at all times and shall have sufficient employees to provide safe, adequate and prompt service for its facilities. (1970 Code, § 5-617)

**9-718. Amendments and supplemental agreements.** It shall be the policy of the city to amend this code, upon application of the company, when necessary, to enable the company to take advantage of any development or developments in the field of transmission of television and radio signals which will afford it an opportunity to more efficiently, effectively or economically serve its subscribers. Provided, however, that this section shall not be construed to require the city to make any amendment or to prohibit it from unilaterally changing its policy stated herein. (1970 Code, § 5-618)

**9-719. Conditions of street occupancy.** (1) All transmissions and distribution structures, lines and equipment erected or installed by the company within the city shall be so located or installed as to cause a minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

(2) In case of disturbance by the company of any street, sidewalk, alley, public way or paved area, the company shall, at its own cost and expense and in a manner approved by the city, replace and restore such street, sidewalk, alley, public way and paved area in as good a condition as before the work involving such disturbance was done. The company shall comply with all applicable provisions of the McEwen Municipal Code and ordinances of the city, as may hereafter be amended, in regard thereto.

(3) If at any time during the period of the franchise the city shall lawfully elect to alter or change the grade of any street, sidewalk, alley or other public way, the company, upon reasonable notice by the city, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures under the same conditions and terms as specified for any telephone or electrical utility.

(4) The company shall, on request of any person holding a building moving permit issued by the city, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid in advance by the person requesting the same and the company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

(5) The company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public ways and places in the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the company, except that at the option of the city said trimming may be done by it or under its supervision and direction at the expense of the company. (1970 Code, § 5-619)

**9-720. Preferential or discriminatory practices prohibited.** The company shall not, as to rate, charges, service, service facilities, rules or regulations or in any other respect, make or grant any undue preference or advantage to any person in the same class, nor subject any person in the same class to any prejudice or disadvantage. The company shall not discriminate in its employment policies and practices with respect to race, age, creed, or sex, and shall permit minority citizens an opportunity to apply for employment and that training and opportunities for advancement and promotion without such discrimination. (1970 Code, § 5-620)

**9-721. Removal of facilities upon request.** Upon termination of

service to any subscriber, the company shall promptly remove all of its facilities and equipment from the premises of such subscriber upon his request. (1970 Code, § 5-621)

**9-722. Transfer of franchise.** The company shall not transfer the franchise to any other person without prior approval of the city. (1970 Code, § 5-622)

**9-723. Change of control of company.** Prior approval of the board shall be required where the ownership or control of more than 51% of the right of control of the company is acquired by a person or group of persons acting in concert, none of whom already own or control 51% or more of such right of control, singularly or collectively. Any such acquisition occurring without prior approval of the board shall constitute a violation of the franchise and a violation of this code; provided, however, that the company shall at all times be permitted to assign or transfer any interest in its profits or losses to any third party so long as the control of the company is not so transferred. (1970 Code, § 5-623)

**9-724. Filings and communications with regulatory agency.** Copies of all petitions, applications and communications submitted by the company to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency, having jurisdiction in respect to any matters affecting the cable system, shall also be submitted simultaneously to the city. (1970 Code, § 5-624)

**9-725. City rights and the franchise.** (1) The right is hereby reserved to the city to adopt, in addition to the provisions contained in this code, and in any other existing applicable ordinances, or sections of the McEwen Municipal Code, such additional regulations as it shall find necessary in the exercise of the police powers; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

(2) The city shall have the right to inspect the books, records, maps, plans, income tax returns and other like materials of the company at any time during normal business hours.

(3) The city shall have the right, during the duration of the franchise, to install and maintain free of charge upon the poles or in the conduits of the company, any wire and pole fixtures necessary for a police alarm system or like public purpose on the condition that such wire and pole fixtures do not interfere with the cable system operations of the company.

(4) The city shall have the right to inspect all construction or installation work performed subject to the provisions of the franchise and of this code and make such other inspections as it shall find necessary to insure compliance with the terms of or use of the cable system installed or constructed pursuant to this code and the company shall comply with all applicable

provisions of the McEwen Municipal Code as heretofore adopted or hereafter amended, and all other codes including, but not limited to building, electrical and others, as may be amended.

(5) At the expiration of the term for which the franchise shall be granted, or of the term of any extension or renewal thereof, or upon the termination or cancellation of the franchise as provided for herein, the city, for good cause shown, shall have the right to require the company to remove at its own expense all portions of the cable system from all public ways within the city limits.

(6) After the expiration of the term for which the franchise may be granted, or after its termination and cancellation, as provided for herein, the city shall have the right to determine whether the company shall continue to operate and maintain the cable system pending the decision of the city as to the future maintenance and operation of such system. (1970 Code, § 5-625)

**9-726. Maps, plats and reports.** (1) The company shall file with the city recorder a true and accurate map or plat of all existing and proposed installation of cable, wires and facilities of the cable system.

(2) The company shall file annually with the board, or its designee, not later than ninety (90) days after the end of its fiscal year, a copy of its financial report, income statement applicable to the operations within the city during the preceding twelve (12) months period, a balance sheet, and a statement of its properties devoted to its operations within the city by categories, giving its investment in such properties on the basis of original costs less accrued depreciation. These reports shall be prepared or approved by a certified public accountant and there shall be submitted along with them such other reasonable information as the board shall request with respect to the properties and expenses of the company related to its cable system operations within the city.

(3) The company shall at all times keep on file with the city recorder a current list of its partners, stockholders, officers, directors and bondholders. (1970 Code, § 5-626)

**9-727. Payment to the city.** The company shall pay to the city an amount equal to 1% of its gross subscriber revenues received by it during its preceding fiscal year; said payment shall be made within ninety (90) days after the end of its fiscal year. The said franchise payment shall be in addition to and not in lieu of any ad valorem taxes or business taxes or business taxes assessed with respect to the real or personal property of the company. (1970 Code, § 5-627)

**9-728. Forfeiture of franchise.** (1) In addition to all other rights and powers appurtenant to the city by virtue of this code or otherwise, the city reserves the right to terminate and cancel the franchise and all rights and privileges of the company as a result thereof in the event that the company:

(a) Violates or is in default of any covenant or agreement between the company and the city by virtue of this code or is in violation of any provision of this code or any rule, order or determination of the city or the board made pursuant to this code, except where such violation is without fault or through excusable neglect unless such latter violation or default remains unremedied or uncorrected after reasonable notice in writing and opportunity offered to remedy such violation or default, in which latter event the same shall be a ground for termination or cancellation of the franchise by action of the board without further notice.

(b) Becomes insolvent or unable to pay its debts or is adjudged a bankrupt.

(c) Attempts to evade any of the provisions of this code or practices any fraud or deceit upon the city.

(d) Fails to begin construction under the franchise within the time provided herein or by the terms hereof and fails to complete construction so as to provide service throughout the city within the time specified.

(2) Any such termination and cancellation shall be by ordinance duly adopted by the board after thirty (30) days notice to the company and the failure of the company to correct the violation, insolvency, or bankruptcy, or its failure to pay its debts or to secure reversal of a cease and desist order, or its failure to complete construction under the franchise. In the event that such termination and cancellation depends upon a finding of fact, such finding of fact shall be made by the board. Provided, however, that before the franchise may be terminated and cancelled as provided herein, the company must be provided with an opportunity to be heard before the board; and further, that such finding of fact as made by the board shall be subject to review by a court or courts of appropriate jurisdiction. (1970 Code, § 5-628)

**9-729. City's right of intervention.** The company shall not oppose intervention by the city in any suit or proceeding to which the company is a party. (1970 Code, § 5-629)

**9-730. Further agreement and waiver by company.** The company shall abide by all provisions of the franchise and shall not at any future time set up as against the city or the board the claim that the provisions of this code or the franchise are unreasonable, arbitrary, or void. (1970 Code, § 5-630)

**9-731. Duration and acceptance of franchise.** The franchise and the rights, privileges and authority thereby granted, shall take effect and be in force from and after the date of the grant of the franchise by the board, as provided herein, and shall continue to be in force and effect for a term of fifteen (15) years. (1970 Code, § 5-631)

**9-732. Rates and charges.** (1) The rates and charges for television and radio signals distributed and other services provided by the company under the franchise shall be fair and reasonable and no higher than necessary to meet all costs of services (assuming efficient and economical management) and to provide a fair rate of return on the capital investment of the company.

(2) The board shall have the power, authority, and right to cause the rates and charges of the company to conform to the provisions of the § 9-732(1) above set forth, and for this purpose, it may approve or deny rate increases or cause reductions in such rates and charges when it determines that in the absence of such actions on its part, the rates and charges or proposed increased rates or charges of the company will not conform to the above section, and provided that such determination by the board shall be final and conclusive. However, no action shall be taken by the board with respect to the rates and charges under this section until the company shall have been given notice thereof and an opportunity to be heard by the board with regard thereto.

(3) As a condition for the granting of the franchise and the continuance thereof the company shall file with the city on or before December 1 of each year a statement or schedule of its proposed rates and charges to its subscribers during the succeeding calendar year and which shall be a continuing part of and condition of the franchise and which schedule of rates and charges shall not be changed within one (1) year from the effective date thereof without prior approval by the board. (1970 Code, § 5-632)

**9-733. Procedure for granting of a franchise.** The granting by the board on behalf of the city of the franchise under this code shall be in accordance with the following procedures:

(1) At such time as the board shall direct by resolution the mayor of the city shall cause to be given by public advertisement in a newspaper published in Humphreys County, Tennessee, notice that the board is soliciting from interested persons bids or proposals for the acquisition of the franchise under this code. Such notice shall require that such bids be submitted in writing within a time as therein stated and which bids shall set forth the following:

(a) The name, address, ownership, background, experience in the business and other pertinent information of the bidder; and

(b) The agreement by the bidder that it accepts and agrees to be bound by the provisions of this code and that its bid constitutes an offer of contract that when accepted by award of the franchise shall be a lawfully binding contractual arrangement between the bidder and the city; and

(c) The proposal of the bidder of the minimum time it reasonably expects and the maximum time by which it shall have constructed a cable system in the city; and

(d) The type or kind of cable system it proposes (but of not less

a quality than as required by this code); and

(e) The rates and charges that the bidder proposes to charge during the first calendar year of its operations; and

(f) Exhibit a copy of the insurance policies and bonds as required under this code; and

(g) Be executed by an authorized officer of the bidder and state the time during which such bid shall be irrevocable.

(2) The board shall have the right to waive any irregularity of any bid and shall have the right to reject any and all bids or cause a rebidding.

(3) If deemed necessary by the board it shall have the right to conduct public hearings upon the bid or bids received.

(4) At such time as the board shall determine, but not longer than sixty (60) days from the date that the bidding shall cease, the board shall award the franchise to the best bidder as determined solely by the board by the adoption of a specific grant of franchise ordinance that accepts the bid and which by such acceptance shall create a binding contract between the city and the company. (1970 Code, § 5-633)

## CHAPTER 8

### TELECOMMUNICATIONS REGULATIONS

#### SECTION

- 9-801. Purpose.
- 9-802. Applicable scope.
- 9-803. Definitions.
- 9-804. Municipal permit required.
- 9-805. Application to provide telecommunications services using the public rights-of-way.
- 9-806. Municipal permit issuance.
- 9-807. Petition for reconsideration.
- 9-808. Administration and enforcement.
- 9-809. Compensation to city.
- 9-810. Remitting rental fees to the city.
- 9-811. Audits.
- 9-812. Transfers.
- 9-813. Notices to the city.
- 9-814. Construction obligations.
- 9-815. Joint facilities use.
- 9-816. Emergency orders or operations.
- 9-817. As built plans and modifications.
- 9-818. Conditions of rights-of-way occupancy.
- 9-819. Insurance requirements.
- 9-820. Indemnity.
- 9-821. Privacy of customer information.
- 9-822. Annexation or deannexation.
- 9-823. Unauthorized use of public rights-of-way.

**9-801. Purpose.** The purpose of this regulation is to establish a competitively neutral policy in permitting use of public rights-of-way by providers of telecommunications services by:

- (1) Permitting non-discriminatory access thereto by such providers;
- (2) By managing such public rights-of-way in ways to minimize the impact and cost to citizens resulting from the placement of telecommunications facilities within those rights-of-way;
- (3) By obtaining fair and reasonable compensation for the commercial use of the public rights-of-way through collection of rents;
- (4) By promoting competition among providers to encourage universal availability of advanced telecommunications services to all residents and businesses; and
- (5) By minimizing congestion, inconvenience, visual impact and other adverse effects that such use may have on the public rights-of-way. (as added

by Ord. #188, Aug. 1997)

**9-802. Applicable scope.** This regulation applies to all providers of telecommunications services under Titles II ("Title II") and VI ("Title VI") of the Federal Communications Act of 1934 as amended (47 U.S.C. 201 et seq.), excluding services provided solely by means of wireless transmission. This regulation does not exempt providers of cable services nor open video systems services from the requirements of Title VI and applicable Federal Communications Commission ("FCC") rules and regulations. Any requirements and obligations imposed by this regulation are in addition to any requirements imposed by Title VI or by state law. (as added by Ord. #188, Aug. 1997)

**9-803. Definitions.** (1) "Applicant." A person filing an application seeking permission to use the public rights-of-way to provide telecommunications services within the city, whether by means of owned facilities or by means of capacity obtained from another provider.

(2) "City." The City of McEwen and its incorporated territory.

(3) "Chief administrative officer." The mayor of the city.

(4) "City requirements." All laws, rules, regulations, policies and directives of general application of the city in effect at any time.

(5) "Gross revenue." All revenues received by a provider for telecommunications services furnished within the city; provided, however, revenues received for use of network capacity, switched or unswitched access, and sale of unbundled elements under the Federal Communication Act of 1934 and from re-sellers of telecommunications services in compliance with this regulation are not included. It also does not include revenue which is uncollectible from customers ("bad debts") and end-user taxes collected from customers.

(6) "Municipal permit." The right granted by the city to use the public rights-of-way to provide telecommunications services to the public or to other providers.

(7) "Person." A natural person or a firm, proprietorship, partnership, association, trust, estate, corporation, company or any business or commercial organization or enterprise of any kind.

(8) "Provider." A person operating or using a telecommunications network providing telecommunications services in the city.

(9) "Public rights-of-way." The surface, air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge or similar property in which the city holds any property interest or exercises any rights of management or control and which may be used for the installation and maintenance of a telecommunications network.

(10) "Telecommunications network" All facilities placed in the public rights-of-way used to provide telecommunications services.

(11) "Telecommunications services." All transmissions of information between or among points specified by the user (whether by voice, video or other data transmission), without change in content of the information sent and received, where such transmissions are accomplished through a telecommunications network. Telecommunications services includes all ancillary or adjunct switching services and signal conversions rendered as a function of underlying transmission services, but excludes long distance transmissions (inter-LATA and intra-LATA toll transmissions). Telecommunications services also includes all content or value-added services rendered in conjunction with transmission services. (as added by Ord. #188, Aug. 1997)

**9-804. Municipal permit required.** No person shall deliver telecommunications services using any portion of the public rights of way of the city by means of a telecommunications network unless the person obtains and holds a valid municipal permit. (as added by Ord. #188, Aug. 1997)

**9-805. Application to provide telecommunications services using the public rights-of-way.** (1) Application for a municipal permit shall be submitted to the chief administrative officer in a form prescribed by him and shall describe all services the applicant proposes to provide. It shall outline the proposed telecommunication network and identify the uses of and potential impact on the public rights-of-way.

(2) The chief administrative officer shall review applications and grant or deny municipal permits. He shall submit a report annually to the board of mayor and aldermen analyzing whether requirements imposed by this regulation result in

(a) Anti-competitive effects in the market for telecommunications services in the city as defined by federal law or

(b) Discrimination in favor of or against a provider. (as added by Ord. #188, Aug. 1997)

**9-806. Municipal permit issuance.** (1) If the chief administrative officer finds that an application meets the requirements of this regulation he shall issue a municipal permit to the applicant.

(2) The chief administrative officer shall complete all deliberations towards issuing a municipal permit and issue or a deny the same in writing within sixty (60) days of receipt of an application. The applicant shall respond to all reasonable information requests of the chief administrative officer during the consideration period. Any delays in providing information shall be documented in writing and any delays or refusals to furnish information by an applicant shall be grounds for denial of a municipal permit. (as added by Ord. #188, Aug. 1997)

**9-807. Petition for reconsideration.** Granting, denying or terminating a municipal permit is an exercise of the municipal police power. A person whose application for a municipal permit is denied must petition the board of mayor and aldermen for reconsideration before seeking judicial remedy. The petition must be filed within forty-five (45) days of written denial of the application by the chief administrative officer. A petition for reconsideration is deemed denied if the board of mayor and aldermen do not act within forty-five (45) days after it is filed with the city recorder. (as added by Ord. #188, Aug. 1997)

**9-808. Administration and enforcement.** (1) The chief administrative officer shall administer this regulation and enforce compliance with municipal permits.

(2) Providers shall report all information required by the chief administrative officer, in the form and manner prescribed, which relates to the use of the public rights-of-way under a municipal permit.

(3) The chief administrative officer shall report to the board of mayor and aldermen any determination that a provider has failed to comply with this regulation. (as added by Ord. #188, Aug. 1997)

**9-809. Compensation to city.** (1) To compensate the city for the use and occupancy of the public rights-of-way, providers shall pay fees calculated as follows:

(a) Rights-of-way rental fees. Providers shall pay a 5% annual fee based on their gross revenues obtained from providing telecommunications services within the city.

(b) Non-monetary consideration. To the extent allowed by state and federal law, the city may include non-monetary compensation to be furnished by each provider. To the extent not expressly prohibited by applicable law, a provider may agree to furnish non-monetary consideration in the form of telecommunications services, telecommunications network capacity, conduit or other infrastructure, all valued at direct cost. A credit or offset for any non-monetary consideration received shall be applied to the annual rights-of-way rental fees of such provider. Form of non-monetary consideration and the credit amount shall be public information.

(c) Credit for cable television franchise fees and other contributions. Providers currently franchised by the city under the state and federal law and regulations to provide cable television service shall receive a credit against the annual rights-of-way rental fees for any cable television franchise fees paid by them to the city and for any other monetary or non-monetary contributions to the city under an existing granted cable franchise.

(2) Providers may pass through to customers the municipal

rights-of-way rental fees on a pro-rata basis at their discretion as permitted by state and federal law. The city does not require nor recommend a pass-through charge of the fee on a per line or customer basis. (as added by Ord. #188, Aug. 1997)

**9-810. Remitting rental fees to the city.** Providers shall remit the municipal rights-of-way rental fees on a quarterly basis. Payment shall be made on or before the 45<sup>th</sup> day following the close of each calendar quarter for which the payment is calculated. (as added by Ord. #188, Aug. 1997)

**9-811. Audits.** (1) On thirty (30) days notice, the chief administrative officer, or his designee, may audit a provider. Providers shall furnish information to demonstrate compliance with their municipal permits.

(2) Providers shall keep complete and accurate books of accounts and records of business and operations in accordance with generally accepted accounting principles for a period of five (5) years. If the FCC requires, providers shall use the system of accounts and the forms of books, accounts, records and memoranda prescribed in 47 CFR Part 32 or successor regulations. The city may examine providers books and records.

(3) Providers shall make available for examination, audit, review and copying, at city hall, upon reasonable written request, books and records, including papers, accounts, documents, maps and plans pertaining to their municipal permits granted under this regulation. Providers shall fully cooperate in making records available and otherwise assist examiners. Examiners shall not make copies of customer specific information. (as added by Ord. #188, Aug. 1997)

**9-812. Transfers.** (1) Municipal permits may not be transferred or assigned unless the chief administrative officer approves such transfers in writing.

(2) Change in control of a provider is a transfer requiring approval. A change of 25 percent or greater in the ownership of a provider establishes a rebuttable presumption of change in control.

(3) The transfer or attempt to transfer a municipal permit without approval of the chief administrative officer is grounds for revocation. If revoked all rights of the provider thereunder immediately cease.

(4) Providers may transfer their facilities to an affiliate or to another provider which holds a municipal permit. Providers transferring their facilities remain subject to all applicable obligations and provisions of the municipal permit unless the facilities are transferred to a provider holding a municipal permit.

(5) The chief administrative officer must act on requests for transfer of municipal permits within ninety (90) days of receipt of requests from providers. Requests for transfer of municipal permits not acted upon within

ninety (90) days shall be deemed approved. (as added by Ord. #188, Aug. 1997)

**9-813. Notices to the city.** (1) Providers shall promptly notify the chief administrative officer of the details of all petitions, applications, written communications and reports submitted by provider to the FCC and the Tennessee Regulatory Authority relating to or affecting the use of the public rights-of-way and the telecommunications services authorized in a municipal permit. Providers shall furnish the chief administrative officer with copies of all documents upon request.

(2) If a provider asserts the confidential nature of any information, the chief administrative officer shall maintain the confidentiality of such information to the extent permitted by law. The chief administrative officer shall promptly notify a provider of requests for access to confidential information concerning that provider. (as added by Ord. #188, Aug. 1997)

**9-814. Construction obligations.** (1) Providers are subject to the municipal police power and other governmental powers and the rights of the city as a property owner under state and federal laws including the requirements for construction, expansion, reconstruction, maintenance or repair of facilities in the public rights-of-way.

(2) Providers shall place or locate facilities underground in accordance with any applicable requirements.

(3) Whenever requested, providers shall furnish the chief administrative officer with accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation and repair of facilities performed by a provider in the public rights-of-way. If any information furnished is erroneous as to the location of facilities and reliance on this information results in construction delays or additional expenses, providers furnishing the erroneous information shall be liable for the cost of any delays and all additional expenses incurred by reason thereof. (as added by Ord. #188, Aug. 1997)

**9-815. Joint facilities use.** Providers may be required to allow attachment of another provider's facilities to its poles and conduits. (as added by Ord. #188, Aug. 1997)

**9-816. Emergency orders or operations.** (1) The chief administrative officer may declare an emergency and order removal or abatement of a provider's facilities. Upon written notice thereof, a provider shall remove facilities by the deadline established in the order. Providers and city officials shall cooperate to the maximum extent possible to assure continuity of service. If a provider, after notice, fails or refuses to act, the city may remove or abate the facilities at the sole cost and expense of the provider.

(2) Except in an emergency, a provider may not excavate the pavement

of a street or public right-of-way without first complying with all municipal requirements. (as added by Ord. #188, Aug. 1997)

**9-817. As built plans and modifications.** Within one hundred twenty (120) days of completion of each new facility segment, providers shall supply the city with a complete set of "as built" drawings for the segment in a format prescribed by the chief administrative officer. Providers must obtain approval before relocating facilities in the public rights-of-way. The city shall not unreasonably withhold its approval. Providers shall furnish revised maps, including additional facilities, on June 30 of each year to the chief administrative officer showing how new facilities connect to existing facilities. (as added by Ord. #188, Aug. 1997)

**9-818. Conditions of rights-of-way occupancy.** (1) In the exercise of its governmental functions, the city has first priority over all uses of public rights-of-way. The city reserves the right to lay sewer, water and other pipe lines, cables and conduits, to do underground and overhead work and attachment, to restructure or change facilities in, across, along, over or under a public street, alley or rights-of-way occupied by providers and to change any curb, sidewalk or the grade of any street.

(2) In case of conflict or interference between facilities of different providers, the provider whose facilities were first permitted shall have priority over a competing provider's use of the public rights-of-way.

(3) During the term of a municipal permit, if the city authorizes abutting landowners to occupy space under the surface of any public street, alley or right-of-way, that permission given to an abutting landowner shall be subject to the rights of providers. If the city closes or abandons a public right-of-way that contains a provider's facilities, the city shall convey the land or abandon the public rights-of-way subject to the rights granted in municipal permits.

(4) Upon written notice, at their expense, providers shall, temporarily or permanently, remove, relocate, change or alter the position of facilities that are in the public rights-of-way within one hundred twenty (120) days. The city shall give notice whenever it determines that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a city or other governmental entity public improvement in the public right-of-way. Provider are not prohibited from pursuing recovery of the cost of relocation or removal from private parties who initiate a request for relocation or removal.

(5) Providers holding municipal permits may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its networks. All tree trimming shall be performed in accordance with standards promulgated by the city. Tree trimming shall be done under the supervision of the city.

(6) Providers shall temporarily remove, raise or lower aerial facilities

to permit the moving of houses or other bulky structure, upon written notice of no less than forty-eight (48) hours. The expense of such temporary rearrangement shall be paid by the party requesting and benefitting from the temporary rearrangement. Providers may require prepayment or prior posting of a bond from a party requesting a temporary move. (as added by Ord. #188, Aug. 1997)

**9-819. Insurance requirements.** Providers shall obtain and maintain insurance in amounts prescribed by the chief administrative officer. The insurance shall be issued by an insurance company licensed to do business in the State of Tennessee and which is acceptable to the chief administrative officer. Such insurance shall be maintained throughout the term a municipal permit is granted. Providers shall furnish proof of insurance at the time of issuance of a municipal permit. The city reserves the right to review the insurance requirements while a municipal permit is in effect and to reasonably adjust requirements for insurance coverage and limits when the chief administrative officer determines that changes in statutory law, court decisions or the claims history of the industry or with the provider require adjustment of the coverage. The city will accept some certificates of self-insurance in appropriate cases. (as added by Ord. #188, Aug. 1997)

**9-820. Indemnity.** (1) During the term of a municipal permit, providers are liable for the acts or omissions of persons acting for them, including affiliates, when such persons are involved, directly or indirectly, in the construction and installation of the providers' facilities. The acts or omissions of such persons shall be considered the acts or omissions of the providers for whom they are acting.

(2) Providers granted municipal permits shall provide to the chief administrative officer, in writing, a statement agreeing to defend, indemnify and hold the city harmless against all damages, costs, losses or expenses arising out of, incident to, concerning or resulting from the negligence or willful misconduct of the provider, the provider's agents, employees or subcontractors, in the performance of activities under a municipal permit. (as added by Ord. #188, Aug. 1997)

**9-821. Privacy of customer information.** Providers shall comply with state and federal laws regarding privacy of customer information. (as added by Ord. #188, Aug. 1997)

**9-822. Annexation or deannexation.** Within thirty (30) days following passage of action affecting the corporate boundaries of the city, the chief administrative officer shall notify providers of such action and shall furnish maps of the affected area showing the new boundaries of the city. (as added by Ord. #188, Aug. 1997)

**9-823. Unauthorized use of public rights-of-way.** (1) No person shall use the public rights-of-way to provide telecommunications services without first securing a municipal permit from the city.

(2) Each unauthorized use of the public rights-of-way and each unauthorized placement of facilities constitutes a separate offense. Each day that a violation occurs constitutes a distinct and separate offense. (as added by Ord. #188, Aug. 1997)

## CHAPTER 9

### MOBILE FOOD VENDORS

#### SECTION

- 9-901. Definitions.
- 9-902. Permit required.
- 9-903. Application for permit.
- 9-904. Business license, health and safety inspections required.
- 9-905. Exhibition of permit, license and inspection records.
- 9-906. Suspension/revocation of permit.
- 9-907. Appeal of denial or suspension/revocation of permit.
- 9-908. Location restricted.
- 9-909. Location may not interfere with ingress/egress.
- 9-910. Location may not create building code or municipal code violation(s).
- 9-911. Waste disposal.
- 9-912. Loud noises, amplification and speaking devices prohibited.
- 9-913. Expiration and renewal of permit.
- 9-914. Enforcement and inspection.
- 9-915. Beer and alcohol sales prohibited.
- 9-916. Vendors to comply with all health regulations.
- 9-917. Traveling food vendors.
- 9-918. Private catered event exemption.

**9-901. Definitions.** Unless otherwise expressly stated, whenever used in this chapter, the following words will have the meaning as follows:

1. "Building code" or "fire code" mean the current edition of those applicable municipal building fire codes adopted by the City of McEwen.
2. "Business license" means a current license to conduct business in the State of Tennessee issued by the Tennessee Department of Revenue and/or the city.
3. "City" will mean the City of McEwen, Tennessee, a municipal corporation.
4. "Health inspection" will mean the inspection conducted by the Tennessee Department of Health of restaurants and commercial kitchens.
5. "Ingress" and "egress" means access to public or private sidewalks, streets and alleys, public or private buildings, public or private parking lots or any other normal area for pedestrian or vehicle traffic.
6. "Location" means the temporary physical location of a mobile food vendor operation which incorporates sufficient area for customers, parked vehicles and pedestrian and vehicular traffic.
7. "Mobile food vendor" means any motorized vehicle, trailer or other mobile structure used for the purpose of cooking, preparing, selling and/or distributing food and/or beverages to the public ready for consumption.

8. "Municipal code" means the current edition of the codification of the regulatory and penal ordinances adopted by the city.

9. "Permit" means a mobile food vendor license permitting operation of a mobile food vendor when issued by the city recorder.

10. "Private catered event" means an activity which utilizes a mobile food vendor to supply food and/or beverages to employees, customers and/or invited guests at an event not open to the general public and for which customers are not charged for admission nor for food or drink dispense by the mobile food vendor.

11. "Special event permit" means a temporary license that will permit operation by a mobile food vendor to dispense food and drink for a limited period of time at a limited location.

12. "Traveling food vendor" mean a motorized vehicle designed to sell food such as ice cream and frozen treats and/or beverages from residence to residence and, with the exceptions noted herein, will be deemed to be a mobile food vendor. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9.902. Permit required.** (1) A mobile food vendor operating within the corporate boundaries of the city before selling foods and beverages must obtain a permit from the city recorder in accordance with the following requirements:

(a) To cover the cost of necessary review and investigation of the applicant and other administrative and future inspections a fee must be paid in the amount of two hundred fifty dollars (\$250.00) in cash, by credit card, by cashier's check, or postal money order.

(b) A permit will be valid from January 1 through December 31 of the calendar year for which issued regardless of issue date.

(c) A permit will not be prorated nor issued for less than the full required fee amount.

(d) A fee is not refundable in whole or in part.

(2) A permit will be issued in person only during normal business hours.

(3) A permit will not be issued on weekends, after hours, on holidays, through the mail, by email or over the telephone. A permit for operating after business hours, on weekends or holidays must be obtained in advance during normal business hours. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9-903. Application for permit.** Application for a mobile food vendor permit will be made using the application form provided by the city recorder available during normal business hours only. Completed applications with the permit fee must be presented in person during normal business hours. The permit application will include the following information from the applicant:

(1) Name, address and telephone number of the applicant and the business that owns the mobile food vendor.

(2) Name, address and telephone number of the individual who will be

responsible for the operation of the mobile food vendor, if different from the applicant.

(3) A copy of the driver's license of the individual applicant and/or owner of the mobile food vendor making the application.

(4) A copy of the current business license issued by the Tennessee Department of Revenue for the individual or business that owns the mobile food vendor.

(5) A copy of the current health inspection report issued by the Tennessee Department of Health.

(6) Proof of current general and motor vehicle operation liability insurance insuring the mobile food vendor with coverage limits not less than five hundred thousand dollars (\$500,000.00).

(7) An executed pledge of compliance and responsibility form signed by the applicant or authorized agent of the applicant that owns the mobile food vendor.

(8) Payment in full of the permit fee. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9-904. Business license, health and safety inspections required.**

(1) The mobile food vendor must be licensed to conduct business in the State of Tennessee according to regulations by the Tennessee Department of Revenue and must collect and remit state and local sales taxes as required by the Tennessee Department of Revenue. The mobile food vendor will exhibit with the application a copy of the Tennessee Department of Revenue Retail Sales Tax Registration Certificate.

(2) The mobile food vendor must be in compliance with all applicable regulations of the Tennessee Department of Health and, where required, have proof of passing a current health inspection.

(3) The mobile food vendor must be in compliance with all current fire and building safety regulations in adopted and in effect by the city.

(4) All cooking appliances and compressed fuel sources such as propane or other gas tanks must have a current safety inspection tag and/or record available for inspection.

(5) The mobile food vendor will include a fire suppression system and/or portable fire extinguishers with current safety inspection tags. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9-905. Exhibition of permit, license and inspection records.** The mobile food vendor will exhibit in a location that can be viewed by the public the original or a display copy of the current mobile food vendor permit issued by the city, the current license to conduct business issued by the Tennessee Department of Revenue and the result of any applicable inspection required by the Tennessee Department of Health. The original documents must be available for inspection upon request of any law enforcement or other administrative

official of the city or State of Tennessee. (as added by Ord. #326, April 2023  
*Ch6\_06-13-23*)

**9-906. Suspension/revocation of permit.** (1) The permit of a mobile food vendor may be temporarily suspended or permanently revoked for violations of this chapter, or pursuant to health or safety laws and regulations of the State of Tennessee or the ordinances and regulations of the city.

(2) The mobile food vendor permit may be summarily suspended without prior notice or hearing by any law enforcement officer, fire marshal, codes enforcement officer or health officer authorized of the city or any authorized agent of the State of Tennessee for violation of this chapter or the health or safety ordinances of the city or statutes or regulations of the State of Tennessee when a clear and presents danger exists of occurrence of an immediate risk to the public safety and health and welfare of the public is occurring or is about to incur in the opinion of the citing enforcement officer/agent.

(3) The mobile food vendor will cease operation immediately upon receipt of a notice of an emergent violation and will surrender the mobile food vendor permit to the issuing officer or agent.

(4) A notice of violation for each violation, emergent and non-emergent, will be issued to the mobile food vendor or representative by the enforcing officer/agent and a copy submitted to the city recorder, chief of public safety, and planning and zoning office of the city and to any appropriate agency of the State of Tennessee.

(5) Any employee of the mobile food vendor who violates a city ordinance or state statute may be arrested or issued a criminal citation to appear in the appropriate court as established by the city municipal code or Tennessee Code Annotated. If found guilty, the court may impose a penalty separate from action taken by the city board of mayor and aldermen in regard to the mobile food vendor permit.

(6) On receipt of a notice of violation, the planning and zoning office will notify the city recorder, who will cause a hearing to be scheduled before the board of mayor and aldermen at its next available meeting or at a special session to determine if a violation has occurred and, if so, what penalty will be assessed.

(7) A notice of the hearing will be provided by certified mail or delivered in person to the individual or authorized agent of the mobile food vendor by the city recorder at least fourteen (14) calendar days prior to the hearing.

(8) The board of mayor and aldermen may suspend a mobile food vendor permit issued under this chapter when the holder of the permit fails to pay when due all taxes assessed by the city, county or state against the property for which the permit was issued, including any penalty and interest, and if the mobile food vendor has failed to collect and/or remit all retail sales taxes when

due.

(9) The board of mayor and aldermen may revoke or suspend any mobile food vendor permit issued under the provisions of this chapter when the holder is guilty of making a false statement or misrepresentation in the application or violates provisions of this chapter.

(10) The first violation of this chapter will result in the suspension of the mobile food vendor permit for a minimum period of fourteen (14) days.

(11) A second or subsequent violation will result in a suspension for a minimum period of thirty (30) days. Board of mayor and aldermen may impose longer periods of suspension or may revoke a mobile food vendor permit thirty (30) days.

(12) No mobile food vendor permit will be revoked or suspended until a public hearing is held by the board of mayor and aldermen except in emergent cases involving a risk to the health and safety of the public.

(13) At such hearing, the board of mayor and aldermen will consider testimony and evidence presented by the citing officer/agent and other pertinent witnesses and evidence as well as statements, testimony and/or evidence presented by the owner, responsible party, employees and/or any other pertinent witnesses pertaining to the issue of the citation. The board of mayor and aldermen will decide by majority vote of those members present based on testimony and evidence of whether any violation of this chapter or other applicable ordinances or municipal code has occurred.

(14) Should the board of mayor and aldermen determine by a majority vote of those members present that a violation has occurred, it will then determine a penalty for each violation as prescribed in this chapter to include, but not be limited to, temporary suspension, permanent revocation or a civil penalty to be assessed.

(15) If the board of mayor and aldermen assesses a temporary suspension of the mobile food vendor permit, it will establish the starting date of such suspension, to include or exclude any prior suspension of the permit due to emergent circumstances. In other than emergent circumstances as defined in this chapter, the suspension of a mobile food vendor permit will begin at least ten (10) calendar days after the date of imposition in order to allow a period for an appeal to be filed.

(16) If the board of mayor and aldermen determines a mobile food vendor permit should be revoked, a new permit cannot be issued to the same mobile food vendor or to the owner, responsible party or any other party associated with the mobile food vendor for a minimum period of one (1) year from the date of revocation.

(17) If a mobile food vendor permit is suspended or revoked by the board of mayor and aldermen, the city will not refund any portion of the annual permit fee and the vendor will forfeit such fee for the remaining period for which the permit was issued.

(18) The board of mayor and aldermen may, at the time it imposes a

suspension, offer a mobile food vendor permit holder an alternative of paying a civil penalty not to exceed one thousand dollars (\$1,000.00) for each violation. If a civil penalty is offered as an alternative to suspension, the holder has seven (7) calendar days from the date of imposition within which to pay the civil penalty before the suspension is imposed. If the civil penalty is paid within that time, the suspension is deemed withdrawn. Payment of the civil penalty in lieu of suspension by a permit holder is an admission by the holder of the violation charged and is paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #326, April 2023 **Ch6\_06-13-23**)

**9-907. Appeal of denial or suspension/revocation of permit.** The applicant for or holder of a mobile food vendor permit has the right to appeal the city's decision to deny issuance of a permit or the suspension or revocation of a permit.

(1) An applicant whose application for a mobile food vendor permit is denied may appeal that decision in writing within thirty (30) days of notification of denial to the mayor. Upon receipt of an appeal, the mayor will review the application, reason for denial and any other pertinent information and will either uphold or reverse the denial in writing within fifteen (15) days. Should the mayor uphold the denial of the application, the applicant may appeal such decision through a petition to a court of competent jurisdiction.

(2) A permit holder whose permit is suspended or revoked by the board of mayor and aldermen may appeal such action through a petition to a court of competent jurisdiction within ten (10) calendar days of the imposition of the suspension or revocation. Upon receipt of a notice of appeal, the permit holder may seek a stay of the suspension or revocation from the court. Should a judge of a court of competent jurisdiction uphold such suspension or revocation, it will be effective for the original period it was issued beginning the first day after the court issues its ruling. (as added by Ord. #326, April 2023 **Ch6\_06-13-23**)

**9-908. Location restricted.** The operation of a mobile food vendor will be restricted in its locations as stated in the permit.

(1) Mobile food vendors may operate on any privately owned property zoned for commercial or industrial use within the city with written permission of the property owner or authorized agent. Such written permission will contain the specific time(s) and date(s) the vendor will be allowed on the property. Such written permission will be available for inspection upon request of any law enforcement officer, fire marshal, codes enforcement officer, health officer or other agent authorized by the city or the State of Tennessee.

(2) Mobile food vendors may operate on any private commercial, industrial or residential property for a private catered event.

(3) Mobile food vendors must operate with at least ten feet (10') of clearance from buildings, structures, vehicles and combustible materials.

(4) Mobile food vendors must not block or impede access to fire

hydrants, fire department connections or fire lanes. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9-909. Location may not interfere with ingress/egress.** The location of a mobile food vendor on private or public property will not interfere with nor impede any pedestrian or vehicular ingress or egress to a public street, alley, parking lot, sidewalk or other right-of-way or property owned or controlled by the city or any private residence, building or other structure open to the public. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9-910. Location may not create building code or municipal code violation.** The location of a mobile food vendor on private or public property will not create a violation of any building code or zoning ordinance of the city such as the minimum number of parking spaces required, creating a fire or other safety hazard, or setbacks. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9-911. Waste disposal.** The mobile food vendor will be responsible for providing receptacles for the proper and safe disposal of waste produced by the vendor and customers. The vendor will be responsible for the collection and emptying of those receptacles when they become full and at the conclusion of its operation at the location. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9-912. Loud noises, amplification and speaking devices prohibited.** No mobile food vendor nor any person on behalf of the mobile food vendor will shout, cry out, blow a horn, ring a bell or use any sound amplifying device for the purpose of attracting attention to any goods, food or merchandise which such mobile food vendor proposes to sell. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9-913. Expiration of permit.** (1) A mobile food vendor permit will be valid from January 1 or the date of issue until midnight prevailing local time December 31 of the same calendar year. It will be the responsibility of the mobile food vendor to apply for renewal of a permit as prescribed in this chapter at least fourteen (14) days prior to its expiration. Renewal of the permit will be subject to the same terms, fees and conditions as the application for a new permit. A new application will be required. On approval of an application for renewal, the city recorder will issue a new permit effective as of January 1 or on the date actually issued, if after January 1.

(2) It will be a violation of this chapter to operate on an expired mobile food vendor permit. Each day of violation will be deemed a separate violation. (as added by Ord. #326, April 2023 *Ch6\_06-13-23*)

**9-914. Enforcement and inspection.** It will be the duty of all law enforcement officers and codes enforcement officer authorized by the city or

State of Tennessee to ensure that the provisions of this chapter and applicable ordinances of the city and statutes of the State of Tennessee are enforced. Citations may be issued for any violation of this chapter by any building codes enforcement officer. A mobile food vendor permit includes implied consent to allow codes enforcement officers to inspect the location, premises and mobile food vendor vehicle and associated structures for compliance with this chapter and all health and safety regulations of the city and the State of Tennessee. A mobile food vendor that refuses an authorized inspection will immediately cease operation and forfeit the mobile food vendor permit subject to the appeal process established in this chapter. (as added by Ord. #326, April 2023 **Ch6\_06-13-23**)

**9-915. Beer and alcohol sales prohibited.** The sale of beer, wine and/or alcoholic beverages by a mobile food vendor is prohibited. (as added by Ord. #326, April 2023 **Ch6\_06-13-23**)

**9-916. Vendors to comply with all health regulations.** Mobile food vendors must be in compliance at all times with all applicable health regulations established by the city and the Tennessee Department of Health. A vendor suspected to be operating in violation of a health regulation that creates a threat to public health will terminate operation immediately until such time as the inspecting officer/agent determine the threat to public health has been corrected. If the issue cannot be immediately corrected, the vendor is to surrender the mobile food vendor permit and will be subject to the appeals policies established herein. (as added by Ord. #326, April 2023 **Ch6\_06-13-23**)

**9-917. Traveling food vendors.** Traveling food vendors are subject to the same regulations contained herein with the following exceptions and restrictions.

(1) Traveling food vendors may sell food and/or beverages at residences and businesses using the streets of the city.

(2) Traveling food vendors will not sell food that requires cooking using heat, flames, steam or other means of preparation that present a hazard while traveling.

(3) Traveling food vendors will not create a traffic hazard by stopping on a public street or right-of-way where other vehicular traffic is impeded in any way.

(4) Traveling food vendors will not stop in such a place that creates a safety risk for customers or other motorists.

(5) Traveling food vendors may broadcast music from a vehicle at such a volume level as to not create a noise nuisance.

(6) Traveling food vendors will only operate between the hours of 6:00 A.M. and 8:00 P.M. prevailing local time.

(7) Traveling food vendors will be subject to all ordinances and statutes regulating motor vehicles, traffic and the use of public streets and

rights-of-way.

(8) Traveling food vendors are subject to all ordinances and statutes regulating operation of motor vehicles, moving traffic violations, and in use of public streets and rights-of-way and for violation of which a traffic citation may issued to appear in the municipal court. (as added by Ord. #326, April 2023 ***Ch6\_06-13-23***)

**9-918. Private catered event exemption.** A mobile food vendor may operate on private property zoned residential, commercial or industrial to serve a private catered event without necessity of a permit other than as a mobile food vendor. (as added by Ord. #326, April 2023 ***Ch6\_06-13-23***)

**TITLE 10****ANIMAL CONTROL**<sup>1</sup>**CHAPTER**

1. IN GENERAL.
2. DOGS.

**CHAPTER 1****IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.
- 10-108. Inspections of premises.

**10-101. Running at large prohibited.** It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or other livestock, or any chickens, ducks, geese, turkeys, or other domestic fowl to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1970 Code, § 3-101)

**10-102. Keeping near a residence or business restricted.** No person shall keep any animal or fowl enumerated in the preceding section within one thousand (1,000) feet of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1970 Code, § 3-102)

**10-103. Pen or enclosure to be kept clean.** When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1970 Code, § 3-103)

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<sup>1</sup>See also Ord. #155 and #157 in the office of the recorder.

**10-104. Adequate food, water, and shelter, etc., to be provided.** No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1970 Code, § 3-104)

**10-105. Keeping in such manner as to become a nuisance prohibited.** No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1970 Code, § 3-105)

**10-106. Cruel treatment prohibited.** It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1970 Code, § 3-106)

**10-107. Seizure and disposition of animals.** Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The pound keeper shall collect from each person claiming an impounded animal or fowl a reasonable fee to cover the costs of impoundment and maintenance. (1970 Code, § 3-107)

**10-108. Inspections of premises.** For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1970 Code, § 3-108)

## CHAPTER 2

### DOGS

#### SECTION

10-201. Rabies vaccination and registration required.

10-202. Dogs to wear tags.

10-203. Running at large prohibited.

10-204. Vicious dogs to be securely restrained.

10-205. Noisy dogs prohibited.

10-206. Confinement of dogs suspected of being rabid.

10-207. Seizure and disposition of dogs.

**10-201. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1970 Code, § 3-201)

**10-202. Dogs to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1970 Code, § 3-202)

**10-203. Running at large prohibited.**<sup>2</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1970 Code, § 3-203)

**10-204. Vicious dogs to be securely restrained.** It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. (1970 Code, § 3-204)

**10-205. Noisy dogs prohibited.** No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1970 Code, § 3-205)

**10-206. Confinement of dogs suspected of being rabid.** If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may cause such dog to be confined or isolated for such time as he

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<sup>2</sup>State law reference

Tennessee Code Annotated, §§ 44-8-408, 68-8-108, and 68-8-109.

reasonably deems necessary to determine if such dog is rabid. (1970 Code, § 3-206)

**10-207. Seizure and disposition of dogs.** Any dog found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the board of mayor and aldermen. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, to be fixed by the pound keeper, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and a tag placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.<sup>3</sup> (1970 Code, § 3-207)

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<sup>3</sup>State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

## TITLE 11

### MUNICIPAL OFFENSES<sup>1</sup>

#### CHAPTER

1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PERSON.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
6. FIREARMS, WEAPONS AND MISSILES.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. MISCELLANEOUS.
9. MISDEMEANORS OF THE STATE ADOPTED.

#### CHAPTER 1

#### ALCOHOL<sup>2</sup>

#### SECTION

- 11-101. Drinking beer, etc., on streets, etc.  
 11-102. Minors in beer places.

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a permit and license for on premises consumption. (1970 Code, § 10-229)

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<sup>1</sup>Municipal code references

- Animals and fowls: title 10.
- Housing and utilities: title 12.
- Fireworks and explosives: title 7.
- Traffic offenses: title 15.
- Streets and sidewalks (non-traffic): title 16.

<sup>2</sup>Municipal code reference

- Sale of alcoholic beverages, including beer: title 8.

State law reference

- See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

**11-102. Minors in beer places.** No minor under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1970 Code, § 10-222)

**CHAPTER 2****FORTUNE TELLING, ETC.****SECTION**

11-201. Fortune telling, etc.

**11-201. Fortune telling, etc.** It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1970 Code, § 10-235, modified)

**CHAPTER 3**

**OFFENSES AGAINST THE PERSON**

**SECTION**

11-301. Assault and battery.

**11-301. Assault and battery.** It shall be unlawful for any person to commit an assault or an assault and battery. (1970 Code, § 10-201)

## CHAPTER 4

**OFFENSES AGAINST THE PEACE AND QUIET****SECTION**

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

**11-401. Disturbing the peace.** No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1970 Code, § 10-202)

**11-402. Anti-noise regulations.** Subject to the provisions of this section the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

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

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

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in any hospital,

dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

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

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

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

(l) Loudspeakers or amplifiers on vehicles. The use of

mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

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

(a) Municipal vehicles. Any vehicle of the municipality, while engaged upon necessary public business.

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1970 Code, § 10-234)

## CHAPTER 5

### INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

#### SECTION

11-501. Escape from custody or confinement.

11-502. Impersonating a government officer or employee.

11-503. False emergency alarms.

11-504. Resisting or interfering with an officer.

11-505. Coercing people not to work.

**11-501. Escape from custody or confinement.** It shall be unlawful for any person under arrest or otherwise in custody of or confined by the municipality to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1970 Code, § 10-209)

**11-502. Impersonating a government officer or employee.** No person other than an official police officer of the municipality shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the municipality. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1970 Code, § 10-211)

**11-503. False emergency alarms.** It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1970 Code, § 10-217)

**11-504. Resisting or interfering with an officer.** It shall be unlawful for any person to knowingly resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties. (1970 Code, § 10-210)

**11-505. Coercing people not to work.** It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1970 Code, § 10-231)

**CHAPTER 6****FIREARMS, WEAPONS AND MISSILES****SECTION**

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Discharge of firearms.

**11-601. Air rifles, etc.** It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1970 Code, § 10-213)

**11-602. Throwing missiles.** It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1970 Code, § 10-214)

**11-603. Discharge of firearms.** It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1970 Code, § 10-212, modified)

## CHAPTER 7

**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE  
WITH TRAFFIC****SECTION**

- 11-701. Trespassing.
- 11-702. Trespassing on trains.
- 11-703. Malicious mischief.
- 11-704. Interference with traffic.

**11-701. Trespassing.** The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (1970 Code, § 10-226)

**11-702. Trespassing on trains.** It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1970 Code, § 10-221)

**11-703. Malicious mischief.** It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1970 Code, § 10-225)

**11-704. Interference with traffic.** It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1970 Code, § 10-233)

## CHAPTER 8

### MISCELLANEOUS

#### SECTION

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Posting notices, etc.

11-804. Curfew for minors.

11-805. Wearing masks.

**11-801. Abandoned refrigerators, etc.** It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1970 Code, § 10-223)

**11-802. Caves, wells, cisterns, etc.** It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1970 Code, § 10-232)

**11-803. Posting notices, etc.** No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1970 Code, § 10-227)

**11-804. Curfew for minors.** It shall be unlawful for any minor under the age of eighteen (18) years to be abroad at night on the public streets, in public places, or at places of amusement or entertainment after the hour of 11:00 P.M., prevailing time, and before 5:00 A.M., prevailing time, on the following day, unless such minor is going directly to or from a lawful activity or upon a legitimate errand for or is accompanied by his or her parent, guardian, or other adult person having lawful custody of such minor. (1970 Code, § 10-224)

**11-805. Wearing masks.** It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1970 Code, § 10-236)

**CHAPTER 9****MISDEMEANORS OF THE STATE ADOPTED****SECTION**

11-901. Misdemeanors of the state adopted.

**11-901. Misdemeanors of the state adopted.** All offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the common law to be misdemeanors are hereby designated and declared to be offenses against this municipality also. Any violation of any such law within the corporate limits is also a violation of this section. (1970 Code, § 10-101)

## TITLE 12

### BUILDING, UTILITY, ETC. CODES

#### CHAPTER

1. ICC CODES.
- 2.--11. DELETED.

#### CHAPTER 1

#### ICC CODES<sup>1</sup>

#### SECTION

- 12-101. ICC codes adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations.

**12-101. ICC codes adopted.** Pursuant to the authority granted by Tennessee Code Annotated, §§ 6-54-501 et seq., and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the ICC codes<sup>2</sup> are adopted and incorporated by reference for and in effect within the municipality and made a part of the municipal code as title 12 thereof:

- (1) 2015 International Building Code ("ICC Building Code");
- (2) 2015 International Plumbing Code ("ICC Plumbing Code");
- (3) 2006 International Fuel Gas Code ("ICC Gas Code");
- (4) 2015 International Mechanical Code ("ICC Mechanical Code");
- (5) 2015 International Residential Code including Appendices A, B, C, D, E, G, H, J, K, M, O, P, R, S and T ("ICC Residential Code");
- (6) 2015 International Property Maintenance Code ("ICC Property Maintenance Code");

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of these codes (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

- (7) 2015 International Energy Conservation Code ("ICC Energy Conservation Code");
- (8) 2015 International Fire Code (ICC Fire Code");
- (9) 2015 International Existing Building Code ("ICC Existing Building Code");
- (10) 2006 International Performance Code ("ICC Performance Code");
- and
- (11) 2006 International Private Sewage Disposal Code ("ICC Private Sewage Disposal Code").
- (12) 2015 International Swimming Pool and Spa Code ("ICC Swimming Pool and Spa Code").

All subsequent changes, revisions, updates, and amendments to the ICC codes which are adopted and promulgated by the ICC and duly published shall be deemed adopted by reference and in force and effect in the municipality when a copy thereof is filed with the recorder unless within thirty (30) days after such filing the board of mayor and aldermen reject, modify or revise such subsequent change, revision, update of amendment. (1970 Code, § 4-101, as amended by Ord. #170, June 1995, replaced by Ord. #262, Feb. 2011, and amended by Ord. #281, April 2015, Ord. #298, April 2017 *Ch5\_6-9-20*, and Ord. #318, Nov. 2022 *Ch6\_06-13-23*)

**12-102. Modifications.** (1) Whenever the ICC codes reference is made to a certain official named therein designated as the official of the municipality responsible for enforcing the provisions of the ICC codes that official shall be the codes and building inspector employed and designated as such by the municipality from time-to-time.

(2) 2012 International Residential Code modifications. (a) The specific sections thereof at R313.1 will provide alternatively as follows:

Exception: An automatic residential fire sprinkler system will not be required if a two (2) hour fire resistance rated wall exists between units where such walls where such walls do not contain plumbing and/or mechanical equipment, ducts, or vents in the common wall.

(b) Section R313.2 is deleted in its entirety;

(c) The testing requirements Sections NI 102.4.1.2 and NI 103.2.2 are made optional;

(d) The sealing requirements of Section 1103.2.2 are made optional.

(3) 2015 International Energy Conservation Code modifications.

(a) Specific sections 402.4.1.2 and 403.2.2 are made optional.

(b) Deleting Table N1102.1.2 'Insulation and Fenestration Requirements by Component' and inserting Table 402.1.1 of the 2009 International Energy Code "Insulation and Fenestration Requirements by Component" deleting Section N1102.4.1.2 "Testing" with no substitutions; and adding to Section N1103.3.3 with no substitutions:

"#. Visual Inspection") ("ICC Energy Conservation Code"). (1970 Code, § 4-102, as amended by Ord. #170, June 1995, replaced by Ord. #262, Feb. 2011, and amended by Ord. #298, April 2017 *Ch5\_6-9-20*, and Ord. #318, Nov. 2022 *Ch6\_06-13-23*)

**12-103. Available in recorder's office.** One (1) copy of each of the revised ICC Codes and the 2015 NFPA Life Safety Code will be on continuous file in the office of the codes and building inspector of the municipality and will be available for use and inspection by the public during regular business hours. (Ord. #170, June 1995, as replaced by Ord. #262, Feb. 2011, and Ord. #318, Nov. 2022 *Ch6\_06-13-23*)

**12-104. Violations.** It shall be unlawful for any person to violate or fail to comply with any provision of the ICC codes and upon conviction shall be punished by a penalty of not to exceed fifty dollars (\$50.00). Each day of violation shall be deemed a separate offense. (Ord. #170, June 1995, as replaced by Ord. #262, Feb. 2011)

**CHAPTERS 2 – 11**

**DELETED**

(as deleted by Ord. #262, Feb. 2011)

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. JUNKED AND INOPERABLE MOTOR VEHICLES.
4. SLUM CLEARANCE.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Overgrown and dirty lots.
- 13-108. Violations and penalty.

**13-101. Health officer.**<sup>2</sup> The "health officer" shall be such officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1970 Code, § 8-501)

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1970 Code, § 8-504)

**13-103. Stagnant water.** It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his

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<sup>1</sup>Municipal code references  
 Animal control: title 10.  
 Littering streets, etc.: § 16-107.

<sup>2</sup>Charter reference: § 22.

property without treating it so as to effectively prevent the breeding of mosquitoes. (1970 Code, § 8-505)

**13-104. Weeds.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1970 Code, § 8-506)

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1970 Code, § 8-507)

**13-106. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1970 Code, § 8-508)

**13-107. Overgrown and dirty lots.** (1) It is unlawful for owners of record of real property situated within or partially within the corporate limits of the municipality to create or maintain or permit to be created or maintained on such property a growth of trees, vines, grass and underbrush or an accumulation of debris, trash, litter or household garbage, which reasonably endangers the health, safety or welfare of the occupants of the property, occupants of properties in proximity thereto or to the public at large where such conditions encourage the infestation of rats, snakes and other harmful animals and vermin, emits noxious odors or stenches, and causes pollution, fire hazards or any other form of an offensive environmental condition.

(2) **Designation of enforcement officer.** The board of mayor and aldermen of the municipality (the "board") shall designate an appropriate person to enforce the provisions of this section (the "enforcement officer").

(3) **Notice to property owner.** It is the duty of the enforcement officer to inspect properties; and serve notices on owners of record of properties found to be in violation of subsection (1). Such notices shall be in plain language through a compliance order directing property owners take remedial action to eliminate prohibited conditions within ten (10) days, excluding Saturdays, Sundays and legal holidays. Compliance orders shall be sent by certified United States Mail addressed to owners as contained in the property assessment records of the Assessor of Property of Humphreys County, Tennessee or be

personally served on the owners of record by the enforcement officer. Compliance orders shall state that owners of the properties are entitled to a hearing before the board if they disagree with the compliance order. Compliance orders shall contain not less than the following additional information:

(a) A concise statement of the basis of alleged violations; the designated remedial action that must be taken by owners at the expense of the owners and that by failure to do so the municipality will cause the same to be done with the cost thereof becoming a lien against the property to secure payment of such costs ;

(b) Give the address and telephone number of the enforcement officer;

(c) State a cost estimate to remedy the violating conditions if performed by the municipality; and

(d) The place where owners may request an appeal by a formal administrative hearing before the board.

(4) Clean-up at property owner's expense. If property owners fail or refuse to remedy the conditions within the ten (10) days after receiving the compliance order, the enforcement officer shall immediately cause the conditions to be remedied by the municipality at the cost to the property owners. The municipality may collect such cost by action for debt filed in any court of competent jurisdiction . Such actions may be brought against more than one (1) owner. Multiple owners of different properties that are in violation may be joined in one (1) action which shall not be considered as a misjoinder of parties. A notice of lien shall be filed with the Register of Deeds of Humphreys County, Tennessee stating the actual costs the of clean-up incurred by the municipality. Such liens shall be second only in priority to liens for state, county and municipal taxes, liens of the municipality for special assessments, and all valid liens, rights or interests in such property duly recorded in the register's office prior to the filing of such cost of clean-up lien. The actual costs incurred shall be entered on the tax rolls of the municipality as a lien in addition to statutory liens for delinquent ad valorem property taxes to be collected. If an owner fails to pay the costs of the clean-up work when so added, the same are to be collected at the same time and in the same manner as delinquent real property ad valorem taxes are collected and will be subject to the same penalties and interest as in the case for such delinquent taxes.

(5) Appeal. An owner aggrieved by a compliance order of the enforcement officer may appeal the determination and the compliance order to the board. The appeal shall be filed with the recorder within ten (10) days following receipt of the compliance order issued pursuant to subsection (3). Failure to appeal within such time, with out exception, constitutes a waiver of the right to such administrative hearing.

(6) Judicial review. Persons aggrieved by the decision on the compliance order made by the board under subsection (5) may seek judicial review of the decision as provided by law. The remedial period established in

subsection (4) may be stayed during the pendency of any judicial review by agreement with the board or on an application and order of the court to which judicial review is sought conditioned that a bond is made in favor of the municipality in the penal amount of the clean-up costs incurred and court costs as may be assessed to assure payment thereof as adjudged by the court.

(7) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision contained in the municipal charter, municipal code or other applicable law which permits the municipality to proceed against owners of property for mandatory cleanup where there exists unlawful growth of trees, vines, grass, weeds, underbrush, accumulation of debris, trash, litter or garbage or any combination thereof as prohibited by subsection (1). (as added by Ord. #311, March 2020 *Ch5\_6-9-20*)

**13-108. Violations and penalty.** In lieu of an administrative remedy for violations of every provision of this chapter the municipality may prosecute violators in the municipal court who on conviction thereof shall be subject to penalties as provided under the general penalty provisions of the municipal code. Each day of violation that continues shall constitute a separate offense. Citations for one (1) or more days of violations occurring shall be issued to violators to appear at the next session of the municipal court to answer the charges of such violations. Failure to appear with out reasonable cause will be deemed an admission of the violations charged and for which a fine and costs shall be rendered for each day of a violation charged. On failure to pay any judgment of fine and cost so rendered an execution shall issue by the court for collection thereof by writ of execution and garnishment summons as appropriate. (as added by Ord. #311, March 2020 *Ch5\_6-9-20*)

**CHAPTER 2****JUNKYARDS****SECTION**

## 13-201. Junkyards.

**13-201. Junkyards.**<sup>3</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

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

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

(3) All such junkyards within one thousand (1,000) feet of any right-of-way within the municipality shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the right-of-way.

(4) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1970 Code, § 8-509)

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<sup>3</sup>State law reference

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

## CHAPTER 3

### JUNKED AND INOPERABLE MOTOR VEHICLES

#### SECTION

13-301. Junked and inoperable motor vehicles.

**13-301. Junked and inoperable motor vehicles.** (1) It is unlawful for any person owning or possessing real property to willfully allow, permit or maintain an inoperable or junked motor vehicle on such property for a period longer than ten (10) consecutive days unless the premises are zoned and classified for lawful use as a junk yard or a garage for the repair of motor vehicles and such owner or possessor thereof then holds a validly issued business tax license from the municipality for such purpose.

(2) No citation or summons shall issue charging a violation hereof until the owner or person in possession of the real property is given written notice of the violation. If such condition is not abated within sixty (60) days thereafter a complaint may be filed with the municipal court requesting issuance of a citation or summons to the offender to appear and answer therefor. If the municipal court finds probable cause to believe an offense is occurring a citation or summons shall issue and be served on the offender.

(3) A person guilty of violating this regulation shall on conviction be fined fifty dollars (\$50.00) and shall pay the costs of the proceeding as otherwise provided. Each day of continued violation after each summons or citation issues is a separate violation and subjects the offender to assessment of a separate fine for each day of continued violation.

(4) Fines and costs levied and assessed against the owner of real property shall be a lien against such real property which the municipality may enforce by suit and attachment in the name of the municipality.

(5) The owner and the possessor of the real property may be jointly charged with violation hereof.

(6) There shall be a rebuttable presumption that a motor vehicle:

(a) Without an engine or other mechanical or electrical part necessary for its ordinary operation as a motor vehicle; or

(b) Without tires and wheels; or

(c) Mounted on a jack or blocks; or

(d) Unlicensed or unregistered is a junked or inoperable motor vehicle. (as added by Ord. #236, May 2005)

## CHAPTER 4

### SLUM CLEARANCE

#### SECTION

- 13-401. Title of regulations.
- 13-402. Definitions.
- 13-403. Public officer.
- 13-404. Initiation of proceedings; hearings.
- 13-405. Orders to owners of unfit structures.
- 13-406. When public officer may repair or demolish.
- 13-407. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-408. Nuisances.
- 13-409. Basis for a finding of unfitness.
- 13-410. Service of complaints or orders.
- 13-411. Enjoining enforcement of orders.
- 13-412. Additional powers of public officer.
- 13-413. Powers conferred supplemental.
- 13-414. Structures unfit for human habitation or use deemed unlawful.

**13-401. Title of regulations.** These regulations will be known as the "City of McEwen, Tennessee Slum Clearance Ordinance 2017" (hereinafter referred to as the "ordinance"). (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-402. Definitions.** Capitalized words and terms as used herein unless the context otherwise requires or is otherwise indicated will have these meanings:

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

(2) "Governing body" means the Board of Mayor and Aldermen of the City of McEwen, Tennessee.

(3) "Municipality" means the City of McEwen, Tennessee and the territorial areas within its existing corporate limits and all areas that may be annexed thereto from time to time.

(4) "Owner or owners," jointly and severally, means holder of title to a structure and/or title in fee simple to the real property whereon a structure is situated and every mortgagee of record holding a lien on the structure and on the real property where the structure is situated.

(5) "Parties in interest" means all individuals, associations, corporations and other entities who have interests of record in a structure and any thereof who are in possession of the structure.

(6) "Place of public accommodation" means a building or business house in which goods are supplied or services performed or where trade by the

general public is solicited.

(7) "Public authority" means an officer in charge of a department or branch of the government of the municipality or of the State of Tennessee relating to health, fire, building regulations, or other activities concerning a structure located in the municipality.

(8) "Public officer" means the person or persons authorized by the Municipality to exercise the powers prescribed by Tennessee Code Annotated, §§ 13-21-101 et seq.

(9) "Structure" means a dwelling, a place of public accommodation or a vacant building of any description intended for use as a dwelling or place of public accommodation. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-403. Public officer.** A person designated and appointed by the governing body, permanently or occasionally, as a building inspector and codes official is designated a public officer with authority to exercise powers prescribed for a public officer by the ordinance and which powers will be supplemental to all others powers and authority held by a building inspector and codes official under other provisions of law. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-404. Initiation of proceedings; hearings.** Whenever a petition is filed with a public officer by a public authority or by at least five (5) residents of the municipality charging that a structure is unfit for human occupancy or use or whenever it appears to a public officer that a structure is unfit for human occupation or use, the public officer will make a preliminary investigation to determine if there is a reasonable basis to support such charges. If a reasonable basis is found the public officer will issue and serve on the owner and on parties in interest a complaint stating the charges and specifications in that respect and accompanied by notice that a hearing will be held before the governing body at a time and place fixed, not less than ten (10) days nor more than sixty (60) days after service of the complaint and notice. The owner and parties in interest will be notified that they may file an answer to the complaint and appear in person or otherwise and may give testimony at the time and place fixed in the notice. Rules of evidence prevailing in courts of law or equity will not be controlling at hearings before the governing body. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-405. Orders to owners of unfit structures.** After such notice and hearing if the governing body finds that a structure under consideration is unfit for human occupation or use the findings thereof will be reduced to writing setting forth the facts relied on to support such determination and the same along with an order will issue and be served on the owner and parties in interest requiring the owner:

(1) To repair, alter or improve the structure within a time specified not to exceed sixty (60) days if the governing body finds such work can be done at

a reasonable cost that will not exceed fifty percent (50%) of the fair market value of the property on which the structure is situated or at the option of the owner to vacate and close the structure for further human occupation or use; or

(2) T

o remove or demolish the structure within a time specified not to exceed sixty (60) days if the governing body finds that the reasonable cost to repair, alter or improve the structure will exceed fifty percent (50%) of the value of the property on which the structure is situated. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-406. When public officer may repair or demolish.** If an owner refuses to comply or violates an order to repair, alter, improve, vacate or close a structure the governing body through its employees and agents may enter on the property and cause the structure to be repaired, altered, improved or demolished as the terms of the order require. The public officer will post on the main entrance of the structure a placard with these words: "This Building Is Unfit for Human Occupation or Use. The Use or Occupation of this Building for Human Occupation or Use Is Prohibited and Unlawful." (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-407. Lien for expenses; sale of salvaged materials; other powers not limited.** The cost of repairs, alterations, improvements, closing, removing or demolishing a structure incurred by the municipality will be assessed against the owners of the real property where the structure is situated. The public officer will prepare and file with the Register of Deeds of Humphreys County, Tennessee, a notice thereof and from the time of filing of the notice it will be a lien on the real property in favor of the municipality. Those costs will be collected by the recorder no later than the same time as property taxes are collected. If owners fail to pay those costs when due the same may collected in the same manner as delinquent property taxes are collected and such costs will be subject to the same penalties and interest as applicable to delinquent property taxes. In addition, the municipality may collect the costs assessed against owners through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action against multiple owners for the costs assessed against each owner and such will not be considered a misjoinder of parties. If a structure is removed or demolished by the municipality the resulting materials of such structure will be sold and net proceeds credited against the cost of the removal or demolition. If a balance remains owing after payment of court costs and the costs owing to the municipality the same will be deposited in the Chancery Court of Humphreys County, Tennessee and owners and parties in interest will be interplead for the rights thereto to be determined by the court. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-408. Nuisances.** Nothing in the ordinance is to be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary or other proceedings as provided by law. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-409. Basis for a finding of unfitness.** The governing body may determine that a structure is unfit for human occupation or use if conditions are found to exist that show such structure is dangerous or injurious to the health and safety of the occupants or users of such structure, to occupants or users of neighboring buildings or premises or to other residents of the municipality. Such conditions may include, but are not limited to, defects increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defect; and uncleanliness. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-410. Service of complaints or orders.** Complaints, notices and orders issued by the public officer or by the governing body will be served in person or by certified mail. If the whereabouts of persons are unknown and cannot be ascertained by exercising reasonable diligence, the public officer will make an affidavit to that effect and will then serve such complaint, notice and orders on those unable to be located by three (3) weekly publications in a newspaper published in Humphreys County, Tennessee. In addition, a copy of the complaint, notice and orders will be posted in a conspicuous place on or about the premises affected by the complaint, notice or orders. A copy of the complaint, notice and orders will also be filed for record in the Register's Office of Humphreys County, Tennessee. Such public filing will have the same force and effect as lis pendens notices as provided by law. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-411. Enjoining enforcement of orders.** A person aggrieved by an order issued by the public officer or governing body may file a complaint in the Chancery Court for Humphreys County, Tennessee to enjoin the municipality from carrying out an order. The court may issue a temporary order or injunction restraining or enjoining the municipality pending a final disposition of the case; provided, however, a suit seeking such relief must be filed within sixty (60) days after the posting and service of the aggrieved order by the public officer. The remedy provided is the exclusive remedy. No person affected by such order may recover damages for actions taken under such order by the municipality nor because of non-compliance by the grievant with the order. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-412. Additional powers of public officer.** To carry out and effectuate the purposes and provisions of this ordinance the public officer and

the governing body may exercise the following powers which are not to be deemed exclusive, but are in addition to all other powers granted to the municipality by law:

- (1) To cause to be investigated conditions of a structure to determine if the same appears prima facie to be unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter on premises in person or by agents and employees to examine or investigate; provided such entry is made in such manner as will cause the least possible inconvenience to persons in possession and can be done in compliance with legal requirements for gaining entry; and
- (4) To appoint and fix the duties of such officers, agents and employees as the municipality deems necessary to carry out the purposes of this ordinance and to delegate any functions and powers to such agents and employees so designated. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-413. Powers conferred supplemental.** This ordinance will not be construed to abrogate nor impair the exercise of powers of the municipality regarding the enforcement of its charter or any other ordinance or regulation of the municipality nor prevent punishment of an offender found guilty of violations thereof. The powers hereby conferred are in addition and supplemental to those powers conferred by the charter and other laws, ordinances and regulations of the State of Tennessee and of the municipality. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

**13-414. Structures unfit for human habitation or use deemed unlawful.** It is unlawful for owners to create, maintain, use or allow to be created, maintained or used for occupancy for human habitation a structure unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lacking ventilation, light or sanitary facilities, or due to other conditions which render the structure unsafe or unsanitary, or dangerous or detrimental to the health and safety, or otherwise inimical to the welfare of the residents of the municipality. On conviction by the municipal court for violations thereof owners will be assessed a penalty of fifty dollars (\$50.00) and the court costs provided for each offense committed. Each day that a violation continues will constitute a separate offense. (as added by Ord. #299, March 2017 *Ch5\_6-9-20*)

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

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.
4. MOBILE HOME COURTS AND TRAVEL TRAILER COURTS.

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

- 14-101. Creation.
- 14-102. Meetings; chairman; rules and records; powers and duties.
- 14-103. Recorder to be secretary.
- 14-104. Assistance.

**14-101. Creation.** Pursuant to the authority vested in the board of mayor and aldermen of the City of McEwen, Tennessee pursuant to Tennessee Code Annotated, title 13, chapter 4, there is hereby established and created a municipal planning commission in and for the City of McEwen, Tennessee to be known as the "McEwen Municipal Planning Commission." The McEwen Municipal Planning Commission shall consist of five (5) members. One of the members thereof shall be the mayor incumbent in office from time to time or such person as may be designated by the mayor. The term of office of a person designated by the mayor to serve in his place shall be at the pleasure of the mayor. One member shall be an alderman of the city designated by the board of aldermen who shall serve at the pleasure of the aldermen conterminous with his or her term of office as alderman. Three (3) remaining members shall be appointed by the mayor for three (3) year terms; provided, however, that the initially appointed members shall be appointed for terms expiring in one, two and three years. Thereafter they or their replacements shall be appointed for three (3) year terms. Members of the McEwen Municipal Planning Commission shall be residents and property owners of the city and shall serve without compensation. (1970 Code, § 11-101)

**14-102. Meetings; chairman; rules and records; powers and duties.** The McEwen Municipal Planning Commission shall meet at regular and specified times or at such other special times as it may determine. The McEwen Municipal Planning Commission shall elect annually a chairman from among its three (3) appointed members and shall adopt such rules for its

transactions, findings and determinations as it may deem necessary and not inconsistent herewith or with the laws of the State of Tennessee. The McEwen Municipal Planning Commission shall keep records of all such transactions, findings and determinations. The McEwen Municipal Planning Commission is vested with all the power and authority of municipal planning commissions as provided by the laws of the State of Tennessee; but, provided, however, the McEwen Municipal Planning Commission shall not be empowered to obligate the financial resources of the city except to the extent that appropriations have been specifically made for such purpose by the board of mayor and aldermen. (1970 Code, § 11-102)

**14-103. Recorder to be secretary.** The recorder of the City of McEwen is designated ex officio to be the secretary of the McEwen Municipal Planning Commission and shall keep all records, minutes and transactions as required to be kept. (1970 Code, § 11-103)

**14-104. Assistance.** Until further provided, the local planning advisory services of the Local Planning Office of the Department of Economic & Community Development of the State of Tennessee are engaged by the city to assist the McEwen Municipal Planning Commission in its activities and functions. The mayor is authorized and directed to execute and deliver on behalf of the city such agreements relative to such advisory services as may be required and for which appropriations shall have been made for any costs thereof. (1970 Code, § 11-104)

**CHAPTER 2**

**ZONING ORDINANCE**

**SECTION**

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

**14-201. Land use to be governed by zoning ordinance.** Land use within the City of McEwen shall be governed by a separate comprehensive zoning ordinance which may be adopted from time to time by the board of mayor and aldermen.<sup>1</sup>

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

**CHAPTER 3****FLOOD DAMAGE PREVENTION ORDINANCE****SECTION**

14-301. Flood damage control to be governed by flood damage prevention ordinance.

**14-301. Flood damage control to be governed by flood damage prevention ordinance.** Regulations governing flood damage control within the City of McEwen shall be governed by Ordinance Number 160, titled "Flood Damage Prevention Ordinance" and any amendments thereto.<sup>2</sup>

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<sup>2</sup>Ordinance No. 160, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## CHAPTER 4

### MOBILE HOME COURTS AND TRAVEL TRAILER COURTS

#### SECTION

- 14-401. Purpose.
- 14-402. Definitions.
- 14-403. Building permit required.
- 14-404. Application for building permit--information required.
- 14-405. Application for building permit--procedure.
- 14-406. General site requirements for mobile home courts and travel trailer courts.
- 14-407. Design standards for mobile home courts and travel trailer courts.
- 14-408. Required improvements for mobile home courts and travel trailer courts.
- 14-409. License required; special provisions for existing mobile home courts.
- 14-410. License fees.
- 14-411. Application for license.
- 14-412. Revocation of license.
- 14-413. Posting of license.
- 14-414. Development and operation of mobile home courts and travel trailer courts together or in conjunction with other uses.
- 14-415. Temporary visitor's permit required.
- 14-416. Additional provisions for mobile home courts.
- 14-417. Additional provisions for travel trailer courts.
- 14-418. Exceptions.

**14-401. Purpose.** This chapter is intended to supplement the state health regulations for the purpose of ensuring a minimum standard of site development for mobile home courts and travel trailer courts in the City of McEwen, Tennessee. (1970 Code, § 8-401)

**14-402. Definitions.** The following definitions shall be applicable for the purposes of this chapter:

(1) "Landscape treatment." The use of natural and artificial materials to enhance the physical appearance of a site, to improve its environmental setting, or to screen all or part of one land use from another.

(2) "Mobile home or house trailer." A detached dwelling unit including flush toilet, bath, and kitchen facilities, designed for transient use when utilized with a motor vehicle, and considered as a permanent dwelling when all sanitary and utility connections are in place.

(3) "Mobile home court." A parcel of land which provides spaces and other facilities for permanent occupancy by two (2) or more mobile homes.

(4) "Mobile home space." A well defined area of sufficient size to accommodate one mobile home within a mobile home court.

(5) "Mobile home stand." A permanent support or foundation of sufficient area to accommodate a mobile home and its appurtenances, such as canopies, patios, and porches.

(6) "Roadway." A vehicular circulation route within a mobile home court.

(7) "Minor roadway." A roadway of less than five hundred (500) feet in length and serving twenty-five (25) spaces or less if the road is one-way, fifty (50) or less if two-way.

(8) "Collector roadway." A roadway exceeding five hundred (500) feet in length, or serving more spaces than above.

(9) "Site." A parcel of raw land comprising the total land area proposed for development as a mobile home court.

(10) "Travel trailer." A vehicular portable structure having a body width not exceeding eight (8) feet (pick-up, piggy-back or motorized camper, converted bus, tent-trailer, or trailer designated as a travel trailer by the manufacturer) designed as a temporary dwelling for travel and recreational purposes.

(11) "Travel trailer court." A parcel of land which provides spaces and other facilities for temporary occupancy by travel trailers.

(12) "Travel trailer space." A well defined area of sufficient size to accommodate one travel trailer within a travel trailer court. (1970 Code, § 8-402)

**14-403. Building permit required.** The construction or extension of a mobile home court or travel trailer court may not commence until a building permit has been obtained from the building inspector. A building permit may not be issued until an application for said permit has been prepared and presented in accordance with §§ 14-404 and 14-405. (1970 Code, § 8-403)

**14-404. Application for building permit--information required.** The following information shall be reflected on the application for a building permit:

- (1) The name and address of the applicant.
- (2) A legal description of the site.
- (3) A site plan of the proposed court, prepared at a scale no smaller than 1 inch equals 100 feet, showing the following information:
  - (a) Topography and drainage ways, with contour lines at five (5) foot intervals.
  - (b) Location and dimensions of all roadways and trailer spaces.
  - (c) Points of access to public streets.
  - (d) Location and size of water and sewer lines, other sanitary facilities, and all easements.

(e) Location and intended use of service buildings or other permanent structures, together with plans and specifications for such structures.

In addition, a smaller scale location map, showing the court site in relation to the existing public street pattern and indicating the uses of property adjacent to the site and the location of all permanent buildings within two hundred (200) feet of the site, shall be included on the site plan.

(4) Such further information as may be required by the city to enable determination of the proposed court will comply with legal requirements. (1970 Code, § 8-404)

**14-405. Application for building permit--procedure.** (1) The application for a building permit shall be made to the building inspector for issuance or denial.

(2) Enforcement and appeal procedures shall be the same as those provided by the general law. (1970 Code, § 8-405)

**14-406. General site requirements for mobile home courts and travel trailer courts.** (1) Land area. The site shall comprise a single tract except where the site is divided by public streets.

(2) Minimum width.

Portions of the site used for general vehicular entrances and exits only . . . . . 50 feet

Portions of the site containing mobile home stands or travel trailer spaces and buildings open generally to occupants 100 feet

(3) Site condition. Conditions of soil, ground water level, drainage, and topography shall not create hazards to property or to the health or safety of the court occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences.

(4) Location. Each boundary of a mobile home court or travel trailer court shall be at least two hundred (200) feet from any permanent building located outside the court, unless separated therefrom by screening as specified in this code. No permanent residential structure shall be located within the site. (1970 Code, § 8-406)

**14-407. Design standards for mobile home courts and travel trailer courts.** (1) Site planning--general. Site improvements shall be harmoniously and efficiently organized in relation to each other, to the shape of the tract, and to topography, with full regard to use and appearance. Site planning which conforms to terrain, existing trees, and other natural features is preferred.

(2) Roadways. (a) Design. Roadways shall be designed to provide convenient circulation and access to mobile home spaces or travel trailer

spaces and to facilities for common use by court occupants. Roadways shall recognize existing easements and otherwise permit connection to existing facilities where necessary for the proper functioning of the drainage and utility systems. Where feasible, all intersections shall be at right angles.

(b) Right-of-way widths. The minimum required right-of-way widths for roadways in relation to pavement width shall be as follows:

<u>Pavement width</u>	<u>Right-of-way width</u>
12 feet	30 feet
18 feet	40 feet
24 feet	50 feet
27 feet	50 feet
30 feet	55 feet
34 feet	60 feet
36 feet	60 feet

Minimum right-of-way width for entrance streets is 50 feet.

(c) Grades. Grades on roadways shall not exceed ten (10) per cent.

(3) Access to exterior streets. Entrances and exits to the court shall be designed for safe and convenient movement of traffic into and out of the court and to minimize marginal friction with free movement of traffic on adjacent streets. Access points shall be subject to the following limitations:

(a) Width of access points.

One-way access points,	minimum width . . . . .	15 feet
	maximum width . . . . .	25 feet
Two-way access points,	minimum width . . . . .	30 feet
	maximum width . . . . .	35 feet

(b) Minimum distance between access points along street frontage.

Between a one-way access point and another access point, center line to center line . . . . .	200 feet
Between two-way access points, center line to center line . . . .	300 feet

(c) Minimum distance between an access point and an intersection. A point of access shall not be permitted within one hundred (100) feet of the curb line (or street line when there is no curb) of any public street intersection.

(d) Access points in relation to street frontage. On sites with less than one hundred (100) feet of street frontage, there shall be only one point of access; on sites with less than four hundred (400) feet of street frontage, there shall be not more than two (2) points of access. (1970 Code, § 8-407)

**14-408. Required improvements for mobile home courts and travel trailer courts.** (1) Roadways. (a) Construction and maintenance.

Roadways shall have an improved wearing surface constructed on a compact base. Surface and base shall meet the specifications provided by the city.

(b) Pavement widths. Roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:

Minor roadways

One-way, with no parking . . . . .	12 feet
One-way, with parking on one side only . . . . .	18 feet
One-way, with parking on both sides . . . . .	24 feet
Two-way, with no parking . . . . .	24 feet
Two-way, with parking on one side only . . . . .	27 feet
Two-way, with parking on both sides . . . . .	34 feet

Collector roadways

One or two-way, with no parking . . . . .	27 feet
One or two-way, with parking on one side only . . . . .	30 feet
One or two-way, with parking on both sides . . . . .	36 feet

(c) Turn-arounds. Closed ends of dead-end roadways shall be provided with a paved vehicular turn-around at least one hundred (100) feet in diameter.

(2) Landscape treatment. Landscape treatment appropriate for the use and location shall be required to the extent needed to provide a suitable setting for mobile homes or travel trailers and other facilities within the park. Screening is to be installed where necessary in relation to potentially undesirable views such as laundry yards, refuse collection points, and nonresidential uses.

Fences or free-standing walls shall be substantially constructed to withstand conditions of soil, weather, and use. Flora shall be hardy and planted so as to thrive with normal maintenance.

(3) Utilities. Water, sewer, and other utility systems shall be provided in accordance with "Regulations Governing Trailer Courts in Tennessee," regulations 4 through 7, and in accordance with local standards.

(4) Fire prevention. Every court shall be equipped with one fire extinguisher in good working order for every ten (10) mobile home or travel trailer spaces. A fire extinguisher shall be located not further than two hundred (200) feet from each mobile home or travel trailer space. No open fires shall be permitted at any place which would endanger life or property. No fires shall be left unattended at any time. (1970 Code, § 8-408)

**14-409. License required; special provisions for existing mobile home courts.** It shall be unlawful for any person to maintain or operate, within the corporate limits of the city, any mobile home court or travel trailer court unless such person shall first obtain a license therefor.

All mobile home courts in existence upon the effective date of the provisions of this chapter shall within ninety (90) days thereafter obtain such a license.

Operators of existing mobile home courts will not be required to comply fully with the requirements of this chapter. However, until there is full compliance herewith, no existing court is to:

(1) Offer any additional mobile home space or allow any other mobile homes within the existing court beyond the number located therein on the effective date of these provisions.

(2) Replace, or allow to be replaced, any mobile home within the existing court that is for any reason, either temporarily or permanently, removed, destroyed, or otherwise disposed of. (1970 Code, § 8-409)

**14-410. License fees.** The annual license fee for each mobile home court or travel trailer court shall be \$50.00. (1970 Code, § 8-410)

**14-411. Application for license.** (1) Applications for a mobile home court or travel trailer court license shall be filed with and issued by the recorder. Applications shall be in writing, signed by the applicant, and shall be identical to or the same application presented for issuance of a building permit.

(2) The application and all accompanying plans and specifications, accompanied by a building permit, shall be filed in triplicate. (1970 Code, § 8-411)

**14-412. Revocation of license.** The recorder may revoke any license to maintain and operate a mobile home court or travel trailer court when the licensee fails to comply with any provision of this chapter and is found guilty by a court of competent jurisdiction of such violation. After such conviction, the license may be reissued by complying with §§ 14-410 and 14-411 if the circumstances leading to conviction have been remedied and the mobile home court is being maintained and operated in full compliance with the law. (1970 Code, § 8-412)

**14-413. Posting of license.** The license certificate shall be conspicuously posted in the office of or on the premises of the mobile home court or travel trailer court at all times. (1970 Code, § 8-413)

**14-414. Development and operation of mobile home courts and travel trailer courts together or in conjunction with other uses.** Combination of mobile home courts and travel trailer courts or development and

operation of such courts in conjunction with other uses is permitted, and provided that requirements of applicable city, county, and state requirements are met for each of the uses involved.

In addition, such developments shall comply with any special provisions as may be required by the city to ensure orderly development in the community. (1970 Code, § 8-414)

**14-415. Temporary visitor's permit required.** Out-of-town visitors of McEwen residents and similar parties desiring to locate a mobile home or travel trailer, for temporary occupancy during visitation, on private residential property within the city, must first obtain a permit therefor from the building inspector. Such permit shall be issued for a temporary occupancy period of two (2) weeks and may be renewed for only two (2) additional weeks in any ninety (90) day period, it being the intent that no mobile home or travel trailer shall be permitted for more than four (4) consecutive weeks or for more than four (4) weeks in any ninety (90) day period. (1970 Code, § 8-415)

**14-416. Additional provisions for mobile home courts.** (1) Mobile home spaces. Dimensions for trailer coach spaces are regulated by the Tennessee Department of Health. (See "Regulations Governing Trailer Courts in Tennessee," regulation 3.)<sup>3</sup> The following standards are in accordance with state regulations applicable for mobile homes:

Spaces for individual mobile homes shall be well defined.

Minimum required depth of each space . . . . . 80 feet

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<sup>3</sup>The following is excerpted from the Tennessee Department of Health's "Regulations Governing Trailer Courts in Tennessee":

Regulation 3. Trailer coach plot size and spacing of coaches: Trailer coach spaces shall be clearly defined and coaches parked so that there will be at least 15 feet of clear space between coaches or any attachment, such as a garage or porch, 15 feet between coaches and any building or structure, and at least 5 feet between any coach and trailer court property line. No trailer coach shall be located closer than 15 feet to any public street or highway.

The individual plot sizes for trailer coach spaces shall be determined as follows:

- (1) Minimum width shall be equal to the width of trailer plus 20 feet.
- (2) Minimum depth with end parking of automobile shall be equal to the length of trailer plus 30 feet.
- (3) Minimum depth with side or street parking shall be equal to the length of trailer plus 20 feet.

In no case shall the minimum width be less than 28 feet and the minimum depth less than 55 feet and such spaces shall be used only for parking trailer coaches no larger than 8 feet wide and 35 feet long.

Minimum required width of each space . . . . . 40 feet

Minimum width of yards on the space . . . . . 10 feet

(2) Mobile home stands. Mobile home stands shall be constructed of Portland cement concrete, and shall be a minimum of five (5) inches thick. The base of such stands shall be a prepared subgrade constructed in accordance with accepted practice.

(3) Required separation between mobile homes on the site. See "Regulations Governing Trailer Courts in Tennessee, regulation 3."<sup>4</sup>

(4) Automobile storage. Parking spaces shall be provided at the rate of at least one 10 x 20 foot car space for each mobile home space, plus an additional car space for each two (2) mobile home spaces to provide for guest parking, two-car tenants, and for delivery and service vehicles. In so far as practicable, one car space shall be located within each mobile home space. However, no automobile shall be parked on other than a paved surface unless such car space is located within a mobile home space.

(5) Service buildings. Service buildings housing laundry, sanitation, or other facilities for use by court occupants shall be permanent structures complying with all applicable codes. Service buildings shall be well lighted at all times and shall be adequately ventilated, heated, and maintained. There shall be at least twenty-five (25) feet between permanent buildings on the site and any mobile home space.

(6) Minimum length of stay. No space shall be rented for residential use of a mobile home in any such court except for a period of thirty (30) days or more.

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<sup>4</sup>The following is excerpted from the Tennessee Department of Health's "Regulations Governing Trailer Courts in Tennessee":

Regulation 3. Trailer coach plot size and spacing of coaches: Trailer coach spaces shall be clearly defined and coaches parked so that there will be at least 15 feet of clear space between coaches or any attachment, such as a garage or porch, 15 feet between coaches and any building or structure, and at least 5 feet between any coach and trailer court property line. No trailer coach shall be located closer than 15 feet to any public street or highway.

The individual plot sizes for trailer coach spaces shall be determined as follows:

(1) Minimum width shall be equal to the width of trailer plus 20 feet.

(2) Minimum depth with end parking of automobile shall be equal to the length of trailer plus 30 feet.

(3) Minimum depth with side or street parking shall be equal to the length of trailer plus 20 feet.

In no case shall the minimum width be less than 28 feet and the minimum depth less than 55 feet and such spaces shall be used only for parking trailer coaches no larger than 8 feet wide and 35 feet long.

(7) Register of occupants. It shall be the duty of the licensee to keep a register containing a record of all mobile home owners and occupants located within the court. The register shall contain the following information:

- (a) Name and address of each occupant.
- (b) Place of employment of any and all occupants of each mobile home.
- (c) The make, model, and year of all automobiles and mobile homes.
- (d) License number and owner of each mobile home and the automobile by which it is towed.
- (e) The state issuing such license.
- (f) The dates of arrival and departure of each mobile home.

The court shall keep the register available for inspection, at all times, by law enforcement officers (city police and county sheriff), public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration.

(8) Mobile homes to be located in licensed mobile home courts only.

(a) Mobile homes brought into the corporate limits after the effective date of these provisions shall be required to locate within a duly licensed mobile home court. Mobile homes on the lot of an authorized and licensed mobile home dealer exhibiting the same for sale are exempt from this requirement.

(b) Mobile homes located within the city, but outside of a duly licensed mobile home court, prior to the effective date of the above requirement, however, shall have a period of ten (10) years from the adoption of these provisions within which to comply with said provisions.

(9) Permit required for mobile homes.

(a) No mobile home shall be occupied or stored within the corporate limits unless the owner or occupant thereof shall first apply for a permit from the building inspector. The owner or occupant thereof shall have thirty (30) days after the effective date of these provisions within which to apply for said permit. The permit shall be obtained annually.

(b) Mobile homes on the lot of an authorized and licensed mobile home dealer exhibiting the same for sale are exempt from this provision.

(10) Permit fees. The building inspector shall charge a fee of ten dollars (\$10.00) for a permit to occupy or store a mobile home and he shall not issue the same until the applicant exhibits a receipt from the Humphreys County Court Clerk's Office showing that the state tax has been paid on the mobile home or which application is being made. If the mobile home is exempt from the state trailer or mobile home tax, according to law, then the fee for the permit shall be twenty-five dollars (\$25.00) per annum. (1970 Code, § 8-416)

**14-417. Additional provisions for travel trailer courts.****(1) Travel trailer spaces.**

- (a) Spaces for travel trailers shall be well defined.
- (b) Minimum required width of each space . . . . . 15 feet
- (c) Minimum required depth of each space . . . . . 50 feet  
(provides for parking of car so that disconnection of trailer from car is not necessary)
- (d) Minimum width of side yards required  
for each space . . . . . 5 feet
- (e) Travel trailer spaces shall not be located nearer than twenty (20) feet to accessory uses and structures or other park facilities.
- (f) Travel trailer spaces, exclusive of side yards, shall have an improved wearing surface constructed on a compact base. The surface and base will be the same as that required for roadways.

(2) **Automobile storage.** One (1) parking space is provided for park occupants within each travel trailer space. However, additional parking spaces for park employees, delivery and service vehicles, and occasional two-car occupants, shall be provided at the rate of at least two (2) 10 x 20 foot car spaces for each five (5) travel trailer spaces up to twenty (20). No automobile shall be parked on other than a paved surface.

(3) **Accessory uses.** Coin-operated laundry facilities, refreshment stands, or other uses and structures customarily incidental to the operation of a travel trailer park are permitted provided that:

- (a) Such establishments shall not occupy more than ten per cent (10%) of the park area;
- (b) Such establishments shall be restricted in their use to occupants of the park; and
- (c) Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.

(4) **Maximum length of stay.** Spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer court not more than ten (10) days in any fourteen (14) day period.

**(5) Required service buildings and additional improvements.**

- (a) Roadways and travel trailer spaces shall be adequately lighted.
- (b) A management and registration office shall be provided in a permanent building reasonably proximate to the park entrance, together with adequate management storage space.
- (c) Provision shall be made for an outdoor cooking, eating, and recreation area, including at least one outdoor barbecue and one picnic table for each five (5) trailer spaces or fraction thereof.
- (d) A self-service laundry shall be provided, containing at least one coin-operated washer and one coin-operated dryer for every ten (10)

travel trailer spaces, or fraction thereof, unless such facilities are available commercially within one-half mile of the park.

(e) Toilet and bathing facilities shall be provided consisting of at least one lavatory, one water closet, and one shower stall for each sex for each five (5) travel trailer spaces. These facilities shall be distinctly marked; maintained in a clean, safe, and sanitary condition in good working order; housed in a permanent building; and appropriately heated and ventilated. Such facilities shall be for the exclusive use of occupants of the park and shall be located no farther than two hundred (200) feet from the spaces served.

(f) If spaces are to be rented to travel trailers with waste-holding tanks, at least one sanitary station shall be provided in a well-screened location, consisting of a drainage basin constructed of impervious material, containing a disposal hatch with self-closing cover, and related washing facilities including at least one slop sink or slop water closet. Each disposal hatch shall be connected to the park sewer system. Such sanitary station shall be situated no closer than fifty (50) feet to any trailer space or eating area.

(g) Each travel trailer space shall be provided with the following: A tenant refuse container of adequate size, unless groups of spaces are provided with such containers located no farther than two hundred (200) feet from each space served; and a weatherproof electrical connection supplying a minimum of one hundred and ten (110) volts. A water faucet and drain, connected to the park sewer system, shall be provided for each ten (10) travel trailer spaces. Such faucet and drain shall be situated in close proximity to the spaces served. (1970 Code, § 8-417)

**14-418. Exceptions.** Notwithstanding any provision in this chapter to the contrary, any person connected with any fair, circus, horse show, etc., which is authorized to operate within the corporate limits, shall be permitted to locate a mobile home or travel trailer on the fairgrounds for not to exceed a period of two weeks. (1970 Code, § 8-418)

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.
- 15-108. Miscellaneous traffic-control signs, etc.
- 15-109. General requirements for traffic-control signs, etc.
- 15-110. Unauthorized traffic-control signs, etc.
- 15-111. Presumption with respect to traffic-control signs, etc.
- 15-112. School safety patrols.

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.
- 15-122. Bicycle riders, etc.
- 15-123. Lighting requirements for bicycles, motor scooters, mopeds and motor driven cycles.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1970 Code, § 9-101)

**15-102. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1970 Code, § 9-106)

**15-103. Reckless driving.** Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1970 Code, § 9-107)

**15-104. One-way streets.** On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1970 Code, § 9-109)

**15-105. Unlaned streets.** (1) Upon all unlaned streets of sufficient width a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the municipality for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1970 Code, § 9-110)

**15-106. Laned streets.** On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1970 Code, § 9-111)

**15-107. Yellow lines.** On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1970 Code, § 9-112)

**15-108. Miscellaneous traffic-control signs, etc.**<sup>3</sup> It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the municipality unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1970 Code, § 9-113)

**15-109. General requirements for traffic-control signs, etc.** All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>4</sup> published by the U. S. Department of Transportation, Federal

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<sup>3</sup>Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

<sup>4</sup>This manual may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the municipality. This section shall not be construed as being mandatory but is merely directive. (1970 Code, § 9-114)

**15-110. Unauthorized traffic-control signs, etc.** No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1970 Code, § 9-115)

**15-111. Presumption with respect to traffic-control signs, etc.** When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, and approved irrespective of whether or not they were lawfully placed originally. (1970 Code, § 9-116)

**15-112. School safety patrols.** All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1970 Code, § 9-117)

**15-113. Driving through funerals or other processions.** Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1970 Code, § 9-118)

**15-114. Clinging to vehicles in motion.** It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1970 Code, § 9-120)

**15-115. Riding on outside of vehicles.** It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of

lawful duties nor to persons riding in the load-carrying space of trucks. (1970 Code, § 9-121)

**15-116. Backing vehicles.** The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1970 Code, § 9-122)

**15-117. Projections from the rear of vehicles.** Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1970 Code, § 9-123)

**15-118. Causing unnecessary noise.** It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1970 Code, § 9-124)

**15-119. Vehicles and operators to be licensed.** It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1970 Code, § 9-125)

**15-120. Passing.** Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1970 Code, § 9-126)

**15-121. Damaging pavements.** No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1970 Code, § 9-119)

**15-122. Bicycle riders, etc.** Every person riding or operating a bicycle, motorcycle, or motor scooter shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor scooters.

No person operating or riding a bicycle, motorcycle, or motor scooter shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor scooter shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor scooter shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars, in accordance with Tennessee Code Annotated, § 55-9-301, approved by the state's commissioner of safety.

Any person operating or riding as a passenger on a motor scooter, moped, other motor driven bicycle or motorcycle on a public roadway, park, bicycle path or other right-of-way under the jurisdiction of the city shall wear a protective helmet designed for the safety of such operator or passenger. Such protective helmet shall meet or exceed the standards as adopted from time-to-time by the American National Standards Institute (ANSI) or the Snell Foundation.

Every motorcycle or motor driven cycle operated upon any public way

within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian to knowingly permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1970 Code, § 9-127)

**15-123. Lighting requirements for bicycles, motor scooters, mopeds and motor driven bicycles.** No person shall operate a bicycle, motor scooter, moped or other motor driven bicycle upon a public roadway or other right-of-way under the jurisdiction of the city during a period of  $\frac{1}{2}$  (one-half) hour after sunset to  $\frac{1}{2}$  (one-half) hour before sunrise unless such vehicle is equipped with a lamp on the front thereof which emits a white light visible for a distance of at least 500 feet to the front and a red reflector on the rear which is visible for a distance of at least 300 feet to the rear when positioned directly in front of a motor vehicle operating with upper beams of headlight engaged. The operator of such bicycle, motor scooter, moped or other motor driven bicycle may also have on the rear of such vehicle a lamp emitting a red light visible from a distance of up to 500 feet to the rear. (1970 Code, § 9-128)

## CHAPTER 2

### EMERGENCY VEHICLES

#### SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1970 Code, § 9-102)

**15-202. Operation of authorized emergency vehicles.**<sup>5</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1970 Code, § 9-103)

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<sup>5</sup>Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:  
§ 15-501.

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1970 Code, § 9-104)

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1970 Code, § 9-105)

**CHAPTER 3****SPEED LIMITS****SECTION**

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

**15-301. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1970 Code, § 9-201)

**15-302. At intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1970 Code, § 9-202)

**15-303. In school zones.** It shall be unlawful for any person to operate or drive a motor vehicle at a rate of speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (1970 Code, § 9-203)

**15-304. In congested areas.** It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1970 Code, § 9-204)

## CHAPTER 4

TURNING MOVEMENTS

## SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>6</sup> (1970 Code, § 9-301)

**15-402. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1970 Code, § 9-302)

**15-403. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1970 Code, § 9-303)

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1970 Code, § 9-304)

**15-405. U-turns.** U-turns are prohibited. (1970 Code, § 9-305)

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<sup>6</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. Stops to be signaled.

**15-501. Upon approach of authorized emergency vehicles.**<sup>7</sup> Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1970 Code, § 9-401)

**15-502. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1970 Code, § 9-402)

**15-503. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1970 Code, § 9-403)

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<sup>7</sup>Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

**15-504. At railroad crossings.** Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1970 Code, § 9-404)

**15-505. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1970 Code, § 9-405)

**15-506. At "yield" signs.** The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1970 Code, § 9-406)

**15-507. At traffic-control signals generally.** Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway.

- (3) Steady red alone, or "Stop":  
 (a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.  
 (b) Pedestrians facing such signal shall not enter the roadway.
- (4) Steady red with green arrow:  
 (a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.  
 (b) Pedestrians facing such signal shall not enter the roadway.
- (5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1970 Code, § 9-407)

**15-508. At flashing traffic-control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected by the municipality it shall require obedience by vehicular traffic as follows:

- (a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.
- (2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1970 Code, § 9-408)

**15-509. Stops to be signaled.** No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,<sup>8</sup> except in an emergency. (1970 Code, § 9-409)

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<sup>8</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 6

### PARKING

#### SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Presumption with respect to illegal parking.

**15-601. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this municipality shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1970 Code, § 9-501)

**15-602. Angle parking.** On those streets which have been signed or marked by the municipality for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1970 Code, § 9-502)

**15-603. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1970 Code, § 9-503)

**15-604. Where prohibited.** No person shall park a vehicle in violation of any sign placed or erected by the municipality, nor:

- (1) On a sidewalk.
  - (2) In front of a public or private driveway.
  - (3) Within an intersection or within fifteen (15) feet thereof.
  - (4) Within fifteen (15) feet of a fire hydrant.
  - (5) Within a pedestrian crosswalk.
  - (6) Within fifty (50) feet of a railroad crossing.
  - (7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance.
  - (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
  - (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
  - (10) Upon any bridge.
  - (11) Alongside any curb painted yellow or red by the municipality.
- (1970 Code, § 9-504)

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the municipality as a loading and unloading zone. (1970 Code, § 9-505)

**15-606. Regulation by parking meters.** In the absence of an official sign to the contrary which has been installed by the municipality, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the governing body, parking shall be regulated by parking meters where the same have been installed by the municipality. The presumption shall be that all installed parking meters were lawfully installed by the municipality. (1970 Code, § 9-506)

**15-607. Lawful parking in parking meter spaces.** Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (1970 Code, § 9-507)

**15-608. Unlawful parking in parking meter spaces.** It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (1970 Code, § 9-508)

**15-609. Unlawful to occupy more than one parking meter space.** It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters. (1970 Code, § 9-509)

**15-610. Unlawful to deface or tamper with meters.** It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1970 Code, § 9-510)

**15-611. Unlawful to deposit slugs in meters.** It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1970 Code, § 9-511)

**15-612. Presumption with respect to illegal parking.** When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1970 Code, § 9-512)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Deposit of driver's license in lieu of bail.
- 15-706. Disposal of abandoned motor vehicles.
- 15-707. Violation and penalty.

**15-701. Issuance of traffic citations.**<sup>9</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1970 Code, § 9-601)

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1970 Code, § 9-602)

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1970 Code, § 9-603, modified)

**15-704. Impoundment of vehicles.** Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle

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<sup>9</sup>State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1970 Code, § 9-604)

**15-705. Deposit of driver's license in lieu of bail.** Pursuant to the provisions of Tennessee Code Annotated, §§ 55-50-801 through 55-50-805, whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Tennessee department of safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with a violation of any municipal ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of an operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in court in answer to such charge before the court.

Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail shall issue said person a receipt for said license upon a form approved or provided by the state department of safety.

The clerk or judge of a court accepting the license shall thereafter forward to the state department of safety, the license of a driver deposited in lieu of bail if the driver fails to appear in answer to the charge filed against him.

Where a licensee has deposited his license with the officer or court demanding bail, and has received a receipt from the officer or the court, the same is to serve as a substitute for the license until the specified date for court appearance of licensee or the license is otherwise returned to the licensee by the officer or court accepting the same for deposit. (1970 Code, § 9-602.1)

**15-706. Disposal of abandoned motor vehicles.** "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1970 Code, § 9-605)

**15-707. Violation and penalty.** Any violation of this title shall be a civil offense punishable as follows:

- (1) Traffic citations. Traffic citations shall be punishable by a civil

penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within seven (7) days, have the charge against him disposed of by paying to the city recorder a fine of fifty cents (50¢) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after seven (7) days but before a warrant for his arrest is issued, his fine shall be one dollar (\$1.00).

(b) Other parking violations. For other parking violations, the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court but the fines shall be one dollar (\$1.00) within seven (7) days and five dollars (\$5.00) thereafter. (1970 Code, § 9-603, modified)

**TITLE 16****STREETS AND SIDEWALKS, ETC<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. MAINTENANCE OF STREETS AND ROADS BY CITY.

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

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.

**16-101. Obstructing streets, alleys, or sidewalks prohibited.** No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1970 Code, § 12-201)

**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1970 Code, § 12-202)

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

**16-103. Trees, etc., obstructing view at intersections prohibited.**

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, billboard or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1970 Code, § 12-203)

**16-104. Projecting signs and awnings, etc., restricted.**

Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.<sup>2</sup> (1970 Code, § 12-204)

**16-105. Banners and signs across streets and alleys restricted.**

It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen. (1970 Code, § 12-205)

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1970 Code, § 12-206)

**16-107. Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1970 Code, § 12-207)

**16-108. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1970 Code, § 12-208)

**16-109. Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1970 Code, § 12-209)

**16-110. Parades regulated.** It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or

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<sup>2</sup>Municipal code reference

Building code: title 12, chapter 1.

exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1970 Code, § 12-210)

**16-111. Operation of trains at crossings regulated.** No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1970 Code, § 12-211, modified)

**16-112. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1970 Code, § 12-212)

**16-113. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1970 Code, § 12-213)

## CHAPTER 2

### EXCAVATIONS AND CUTS<sup>3</sup>

#### SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the mayor is open for business and said permit shall be retroactive to the date when the work was begun. (1970 Code, § 12-101)

**16-202. Applications.** Applications for such permits shall be made to the mayor or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

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<sup>3</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the mayor within twenty-four (24) hours of its filing. (1970 Code, § 12-102)

**16-203. Fee.** The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1970 Code, § 12-103)

**16-204. Deposit or bond.** No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit or bond. The deposit or bond shall be in the sum of two hundred dollars (\$200.00) and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the mayor may increase the amount of the deposit to an amount considered by him to be adequate to cover the said cost. From this deposit shall be deducted the expense to the municipality of relaying the surface of the ground or pavement, and of making the refill if this is done by the municipality or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored. (1970 Code, § 12-104)

**16-205. Manner of excavating--barricades and lights--temporary sidewalks.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1970 Code, § 12-105)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this municipality shall restore said street, alley, or public place to its original condition. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the municipality will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the municipality, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others

who made the excavation or tunnel. (1970 Code, § 12-106)

**16-207. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1970 Code, § 12-107)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the municipality if the municipality restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the mayor. (1970 Code, § 12-108)

**16-209. Supervision.** The mayor shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the municipality and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1970 Code, § 12-109)

**16-210. Driveway curb cuts.** No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the mayor's office. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1970 Code, § 12-110)

### CHAPTER 3

#### MAINTENANCE OF STREETS AND ROADS BY CITY

##### SECTION

16-301. Policy and procedures.

**16-301. Policy and procedures.** No road shall be considered a public road to be maintained with public funds without full compliance with this procedure and official action by the legislative body.

Any applicant proposing that any road be accepted as a public road which is to be publicly maintained shall construct such road to McEwen Subdivision Regulations specifications prior to the city's acceptance.

A policy is hereby established whereby the developer of a subdivision will submit, to the city's chief enforcing officer for approval, detailed plans for the section or subsection of work to be considered prior to actual construction and not final plat shall be considered by the planning commission until the required plans have been approved.

(1) Any road located as part of a subdivision as defined by law shall be governed by McEwen Subdivision Regulations as adopted by the McEwen Municipal Planning Commission.

(2) Any applicant proposing that any road be accepted as a public road which is to be publicly maintained shall construct such road to McEwen Subdivision Regulations specifications prior to the city's acceptance.

(3) Road construction will be complete when approved by the city's chief enforcing officer in a written recommendation to the legislative body that the road be accepted as a public road.

(4) A one year maintenance bond, as specified in the McEwen Subdivision Regulations, shall be required.

(5) The McEwen Municipal Planning Commission shall make a recommendation to the legislative body pertaining to acceptance of said road.

(6) The legislative body formally accepts said road. (Ord. #166, Nov. 1993)

**TITLE 17**

**REFUSE AND TRASH DISPOSAL<sup>1</sup>**

**CHAPTER**

**1. REFUSE.**

**CHAPTER 1**

**REFUSE**

**SECTION**

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. Accumulation of storage and refuse.
- 17-104. Containers.
- 17-105. Refuse not to be collected unless properly stored.
- 17-106. Refuse from construction, demolition, or repairs.
- 17-107. Unlawful to burn.
- 17-108. Dumping in streams, sewers and drains prohibited.
- 17-109. Disposal of refuse.
- 17-110. Disposal of refuse other than by city.
- 17-111. Residential points of collection.
- 17-112. Commercial or business points of collection.
- 17-113. Frequency of collection.
- 17-114. Refuse collection and/or disposal service charges.
- 17-115. Collection of city service fees or charges.
- 17-116. Disturbing containers.
- 17-117. Collection under supervision of city.
- 17-118. Collection vehicles.
- 17-119. Violations.

**17-101. Definitions.** Capitalized terms contained herein are defined as follows:

(1) "City" means City of McEwen, Tennessee, a municipal corporation, a local government, body politic and corporate organized and existing under the laws and charter granted by the State of Tennessee.

(2) "Garbage" means all animal and vegetable wastes resulting from handling, preparation, cooking or consumption of foods.

(3) "Refuse" means garbage, ashes and rubbish.

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

(4) "Rubbish" means waste paper, tin cans, broken ware, discarded shoes and clothing, bottles, grass cuttings and non-putrescible solid wastes. The term does not include Class III waste nor biological waste.

(5) "Class III waste" means ashes, debris from construction or repair work, trees or tree trimmings, leaves, brush, concrete, bricks and rocks, household appliances, furniture, wood and structural demolition waste materials and any other waste that likely will cause damage to collection and disposal equipment or injury to employees of the collector because of the nature, size or weight of the material or which causes undue hardship on the collector.

(6) "Biological waste" means human and other animal, fish and fowl dead bodies and bodily fluids therefrom.

(7) "Collector" means the city and persons commercially collecting, transporting or disposing of refuse, Class III waste and biological waste within the corporate limits of the city.

(8) "Ashes" include waste products from coal, wood and other fuels used for cooking and heating emanating from public and private residences and establishments.

(9) "Person" includes a human being, association, estate, trust, partnership, firm, corporation, limited liability company, governmental or religious entity, agency and instrumentality and every other form of artificial entity.

(10) "Premises" means real property, buildings, residential homes, businesses, and commercial and industrial facilities within the city or within any service territory served by the city as the collector.

(11) "Municipal collection system" means the public service operated by the city for collection and disposal of refuse for which the city imposes user fees or charges. (1970 Code, § 8-101, as replaced by Ord. #315, Feb. 2021 *Ch6\_06-13-23*)

**17-102. Premises to be kept clean.** Persons owning or occupying premises within the corporate limits of the city are required to keep the same in a clean and sanitary condition, free from accumulation of refuse, offal, filth, Class III waste, biological waste and all other forms of trash. Refuse must be stored in a container of the type hereinafter described ("container") between intervals of collection or otherwise disposed in the manner as herein prescribed to not cause nor likely to cause a nuisance or to become injurious to the public health and welfare. (1970 Code, § 8-102, as replaced by Ord. #315, Feb. 2021 *Ch6\_06-13-23*)

**17-103. Accumulation and storage of refuse.** (1) All persons whether as owner, occupant, tenant, subtenant, lessee, or otherwise using or occupying premises within the corporate limits of the city where refuse accumulates or is likely to accumulate must utilize the municipal collection system and the city-owned containers for storage of refuse except for those businesses and

commercial and industrial establishments utilizing private collectors and dumpsters as hereinafter described.

(2) Refuse will be drained free of liquids before depositing in containers.

(3) Garbage will be wrapped in paper or similar material.

(4) Cans, bottles and other food containers will be free of food particles and drained before disposal.

(5) Rubbish will be placed in containers approved by the city.

(6) Ashes which have been exposed to the weather and completely free of fire or smoke may be placed in containers. Hot ashes which may result in damage to packers, containers or may result in injury to an employee of a collector will not be placed in containers. (1970 Code, § 8-103, as replaced by Ord. #315, Feb. 2021 *Ch6\_06-13-23*)

**17-104. Containers.** (1) Refuse containers ("containers") will be issued by the city for use in the municipal collection system to each residence and business establishments where refuse is generated and collection normally occurs. Issuance will be limited to two (2) residential containers and three (3) commercial business containers. City will not pick up refuse deposited in privately owned containers.

(2) Municipally issued containers are owned by the city and will be replaced by the city if damaged due to normal wear and tear.

(3) When the user associated with a collection site, residence or business, relocates from the collection site all city-owned containers must be returned to the city.

(4) Containers (whether city-owned or by a private collector) will be equipped with tight fitting lids or covers to preclude free access by flies and insects and to prevent containers from collecting water. Lids or covers will be kept in place at all times except when refuse is being deposited or being removed by the collector.

(5) Containers will be maintained in good order and repaired by the assigned user.

(6) Containers will be placed in locations designated by the city. Failure to place a container in the assigned place; obstructing access to the container by placing it too close to an object; not bagging garbage placed in the container; overloading the container; or placing improper materials in the container will be reasons for containers to be by-passed for pick up by the city.

(7) Commercial and industrial establishments not served by a private collector or dumpster service will be provided not to exceed three (3) city-owned containers. A user generating more refuse than can be accommodated by the capacity of three (3) containers are required to use a private collector dumpster or collection service.

(8) Containers must be located outside of buildings and placed so as to not become a traffic or fire hazard and must be accessible to collector employees including mechanical lift collection when utilized.

(9) Containers will be placed adjacent to the street; curb side, sidewalk and/or alley.

(10) Containers will not be placed adjacent to the street, curb side, sidewalk and/or alley for more than twenty-four (24) hours prior to a regularly scheduled collection nor remain for more than twenty-four (24) hours after collection occurs.

(11) If a city-issued container is vandalized or stolen the user at the collection site must file a police report within forty-eight (48) hours of the theft or vandalism. If theft or vandalism is reported within forty-eight (48) hours thereof and occurred during the time the container is permitted to be located at the street, curb side, sidewalk, and/or alley for collection, the city-owned container will be replaced by the city. It will be the responsibility of the user at the collection site to provide a copy of the police report. In the event it is determined that the theft or vandalism occurred due to the user not removing the container from the street, curb side, sidewalk, and/or alley within twenty-four (24) hours before and after collection, the user will be responsible for the cost of replacement. (1970 Code, § 8-104, as replaced by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-105. Refuse not to be collected unless properly stored.** City employees will not shovel nor pick from the ground any accumulation of refuse including bagged garbage, cardboard, leaves, lawn clippings, brush, packing material, etc. (1970 Code, § 8-105, as replaced by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-106. Refuse from construction, demolition, or repairs.** City employees will not collect Class III waste resulting from construction, demolition or repair of buildings, structures or appurtenances. The property owner and/or contractor or the person having charge thereof will be responsible for the lawful disposal of such Class III waste. (1970 Code, § 8-106, as replaced by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-107. Unlawful to burn.** It is unlawful to burn refuse, Class III waste and biological waste on private or public property within the corporate limits of the city without first obtaining a permit from the city fire department. (1970 Code, § 8-107, as replaced by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-108. Dumping in streams, sewers, and drains prohibited.** It is unlawful to dump refuse, Class III waste and biological waste in any form into a stream, ditch, storm sewer, sanitary sewer, or other drain within the corporate limits. (1970 Code, § 8-108, as amended by Ord. #205, May 2000, and replaced by Ord. #285, Sept. 2015, as replaced by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-109. Disposal of refuse.** All refuse accumulated in the city will be collected, conveyed and disposed in conformity with these regulations. Private collector services collecting and disposing of refuse will not convey transport refuse over city streets or alleys except as herein allowed. All such refuse will be delivered to and disposed at a site or sites designated by the city or by Humphreys County. (1970 Code, § 8-109, as replaced by Ord. #315, Feb. 2021 *Ch6\_06-13-23*)

**17-110. Disposal of refuse other than by city.** Actual producers of refuse, including residential, commercial, and business establishments, or the owners of premises on which refuse has accumulated, may personally convey and dispose of such refuse from their owned or occupied premises provided such disposal complies with the regulatory requirements of the refuse disposal code to authorized points of lawful disposal. Privately operated collectors must apply for a permit granting the right to privately contract to collect, convey, and dispose of refuse within the city. Locations within the city where such service is performed will at all times be furnished to the city. (1970 Code, § 8-110, as replaced by Ord. #315, Feb. 2021 *Ch6\_06-13-23*)

**17-111. Residential points of collection.** (1) Containers will be placed for collection at ground level on the premises where collection is made unless the user makes special arrangements with the city to place the container at another point.

(2) Persons served by an alley abutting the property of the user will place containers as near as possible to the alley line, but not more than five feet (5') from the alley line on the day of collection service.

(3) Persons with unpaved or graveled driveways not capable of accommodating a refuse collection vehicle will place containers as near as possible to the public street right-of-way or curb line on the day of collection.

(4) City will not be responsible for driveways, shrubbery, down spouts, lawns, mail receptacles damaged while in the process of entering the premises for the purpose of collecting refuse. Collectors may enter private property for the purpose of removing refuse unless the person being serviced objects to the collection equipment entering the premises and advises the city in writing of the objection. Objection to entry on the premises will not relieve the person objecting from the requirements of these regulations for disposal of refuse and maintenance of premises. (1970 Code, § 8-111, as replaced by Ord. #315, Feb. 2021 *Ch6\_06-13-23*)

**17-112. Commercial or business points of collection.** (1) Placement of containers will comply with the provisions of these regulations.

(2) Commercial or business firms utilizing disposal of refuse by private collectors may be permitted to place containers at places on their premises by agreement with the contracted party to accommodate the need of the private

collector responsible for the removal of refuse. (1970 Code, § 8-112, as replaced by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-113. Frequency of collection.** (1) Refuse collection will be made by the city in residential areas on regularly scheduled routes to provide not less than one (1) collection per week for each residence.

(2) Refuse collection will be made by the city in commercial or business areas a maximum of twice per week. Commercial or business areas needing more frequent collections to prevent occurrence of nuisances and public health problems are required to utilize a private collection service. (1970 Code, § 8-113, as replaced by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-114. Refuse collection and/or disposal service charges.**

(1) Institutional, professional, industrial, fraternal, governmental, religious, commercial and business establishments operated within the city and utilizing the municipal collection system will pay a minimum monthly fee as determined by city and adopted through its annual budgeting process.

(2) All residential owners and occupants of premises within the city receiving municipal water service will pay not less than the minimum monthly user fee for residential refuse collection service by the city whether utilized or not. (1970 Code, § 8-114, as replaced by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-115. Collection of city service fees or charges.** (1) Institutional, professional, industrial, fraternal, governmental, religious or commercial service charges will be billed through procedures prescribed by the city.

(2) City may elect to deny refuse collection to commercial, industrial, institutional, professional, fraternal and business establishments and contractors (including demolition wastes) due to waste being hazardous, causing damage to city equipment or if city has inadequate equipment to properly handle the particular refuse.

(3) Institutional, professional, industrial, fraternal, governmental, commercial, and business establishments and contractors requiring special handling or special rates due to unusual situations that prevent the charges from being placed on the monthly city utility statement will be billed and collected by the city by alternative methods prescribed by the city. (as added by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-116. Disturbing containers.** It is unlawful for an unauthorized person to uncover, rifle, pilfer, dig into, turn over or in any other manner disturb or use any container belonging to or assigned to another user. (as added by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-117. Collection under supervision of city.** (1) All refuse accumulated within the corporate limits will be collected, conveyed and disposed under the supervision of such officer as the city designates.

(2) Collections will be made regularly in accordance with announced schedules.

(3) Quantities of tree limbs and tree trimmings equivalent to a full trailer load (20 cu. yd.) or more must be deposited for collection only after specific approval and then according to direction of the city. (as added by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-118. Collection vehicles.** Collectors will utilize vehicles with beds constructed of impervious materials easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. All refuse collection vehicles must utilize closed beds or such coverings as effectively prevents the scattering of refuse over the public streets or alleys. (as added by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**17-119. Violations.** (1) Persons violating provisions of these regulations or who fail or refuse to obey any notice or order issued by a health officer or by the designated officer of the city with reference to the storage, accumulation or disposal of refuse as set forth in these regulations will be subject to prosecution in the municipal court.

(2) It is unlawful to use collection facilities which do not comply with these regulations or to not pay for the use of the storage containers provided by the city.

(3) Each day of a violation continuing under the refuse disposal code will be deemed a separate offense. (as added by Ord. #315, Feb. 2021 ***Ch6\_06-13-23***)

**TITLE 18****WATER AND SEWERS**<sup>1</sup>**CHAPTER**

1. WATERWORKS AND SEWAGE SYSTEMS.
2. WATER AND SEWER SERVICE.
3. GENERAL WASTEWATER REGULATIONS.
4. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

**CHAPTER 1****WATERWORKS AND SEWAGE SYSTEMS****SECTION**

- 18-101. Ownership and operation of a waterworks and sewage systems.  
18-102. Supervision and control.

**18-101. Ownership and operation of a waterworks and sewage systems.** Pursuant to the general laws of the State of Tennessee, the City of McEwen shall operate a waterworks system and a sewage collection and treatment system. (1970 Code, § 13-101)

**18-102. Supervision and control.** In lieu of the election or appointment of a board of commissioners or other board of oversight, the supervision and control of the construction and operation of the works shall be formed by and shall be under the authority of the board of mayor and aldermen of the City of McEwen who shall have all of the powers, duties and responsibilities imposed upon any such board of commissioners or of oversight under state law. The mayor shall be the chief executive officer of such systems. (1970 Code, § 13-102)

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

## CHAPTER 2

### WATER AND SEWER SERVICE

#### SECTION

- 18-201. Application and scope.
- 18-202. Application and contract for service.
- 18-203. Service charges for temporary service.
- 18-204. Water connections and meter settings.
- 18-205. Sewer connections.
- 18-206. Main extensions.
- 18-207. Meters.
- 18-208. Meters tests.
- 18-209. Relocation of meters.
- 18-210. Service deposits.
- 18-211. Schedule of rates and charges for water and sewer services.
- 18-212. Meter reading, billing, and enforcement.
- 18-213. Termination of service by the consumer.
- 18-214. Discontinuance or refusal of service.
- 18-215. Re-connection charge.
- 18-216. Municipality not compelled to construct lines.
- 18-217. Inspections.
- 18-218. Customer's responsibility of system's property.
- 18-219. Customer's responsibility for violations.
- 18-220. Supply and resale of water.
- 18-221. Unauthorized use of or interference with water supply.
- 18-222. Limited use of unmetered private fire line.
- 18-223. Damages to property due to water pressure.
- 18-224. Liability for cutoff failures.
- 18-225. Restricted use of water.
- 18-226. Interruption of service.
- 18-227. Limited abatement of sewer use charge - swimming pools.
- 18-228. Limited abatement of sewer use charges - water pipe leaks.

**18-201. Application and scope.** The chapter is a part of all contracts for receiving water and sewer service from the municipality and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1970 Code, § 13-201)

**18-202. Application and contract for service.** Each prospective customer desiring water or sewer service will be required to sign a standard form contract before service is supplied. If, for any reason, a customer, after signing a contract for water or sewer service, does not take the service by reason of not occupying the premises or otherwise, he shall reimburse the municipality

for the expense incurred by reason of its endeavor to furnish such service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the municipality to render the service applied for. If the service applied for cannot be supplied in accordance with this chapter, and general practice, the liability of the municipality to the applicant for such service shall be limited to the return of any deposit made by such applicant. (1970 Code, § 13-202)

**18-203. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1970 Code, § 13-203)

**18-204. Water connections and meter settings.** (1) All service lines for water will be laid by the municipality from the water main to the property line and meters set at the expense of the applicant for service. The location of such lines and meters will be determined by the municipality.

(2) Before a service line connection will be laid and a meter set inside or outside the city limits where a service line and meter are not already installed, the applicant for service shall pay to city in advance a fee of one thousand five hundred dollars (\$1,500.00) for the connection. This fee shall be used to defray the cost of laying the new service line and installing the appurtenant meter and equipment, but upon installation all of which remains the sole property of the city.

(3) When a service line is completed, the municipality shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the municipality. The remaining portion of the service line beyond the meter box shall belong to and be the responsibility of the customer. (1970 Code, § 13-204, as amended by Ord. #189, Oct. 1997, Ord. #204, May 2000, Ord. #253, Dec. 2008, and Ord. #260, Oct. 2010)

**18-205. Sewer connections.** Unless otherwise prohibited by law or regulations or by any moratorium imposed on the city for extending a new connection, any person, association, firm, corporation or other entity desiring to connect with the existing public sewer system where such public sewer abuts with and is adjacent to the applicant's property shall first apply to the municipality and fill out the application form required by the city from time to time. Each such application shall be accompanied by a non-refundable connection fee in the amount of one thousand five hundred dollars (\$1,500.00) payable to the city to defray the cost incurred by the city in making such connection. All connections made pursuant to this section shall be made by municipal employees or by a contractor employed by the city and shall be extended from the public sewer main to the applicant's private property line.

This section shall have no application to mains that are being extended pursuant to § 18-206 of this code and all connections to mains being extended pursuant to § 18-206 shall be made in accordance with § 18-206. (1970 Code, § 13-205, as replaced by Ord. #292, April 2016)

**18-206. Main extensions.** (1) Any person, firm, or corporation within the municipality desiring to have water and/or sewerage service made available to a particular area or subdivision and to be served by the water and/or sewerage system of the municipality shall:

(a) At own expense prepare detailed plans and specifications of the distribution system in conformance with the regulations of the municipality.

(b) Secure the approval of the plans and specifications in writing from the city engineer.

(c) Secure bids from competent and reliable contractors for the furnishing of materials, labor, and services necessary for the construction of the distribution system.

(d) At own expense, construct the distribution system in accordance with the specifications in a good workmanlike manner and furnish all materials, labor, and services therefor.

(e) Furnish to the municipality evidence that all bills and charges for labor and materials and other services used in the construction have been paid.

(f) Furnish to the municipality a written statement from the city engineer that the installation conforms to all specifications and that he has approved it.

(g) Transfer and convey, by a written instrument, the distribution system, when completed, to the municipality free from all liens of every kind.

(2) If the entire cost of construction and installation of such system is approved by the city engineer, and if it is conveyed and transferred to the municipality free from all liens and encumbrances, and if the applicant keeps and performs his agreements and undertakings as set forth above, then

(a) The municipality will permit the system to be connected onto its distribution system and will furnish water and/or sewerage service to each customer within the area or subdivision after the installation of a municipally owned water meter for each service.<sup>2</sup>

(b) The municipality will charge for water and/or sewerage service at the rates currently being charged other customers in similar locations. (1970 Code, § 13-206)

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<sup>2</sup>See § 18-204 of this code.

**18-207. Meters.** At least one water meter shall be required for each dwelling, building, garage apartment, mobile home, etc., regardless of its use, and the person designated as being responsible for payment of the charges, both water and sewerage, shall be responsible to the municipality for all water consumed and also for the sewerage charges.

Meters and meter settings must be accessible at all times and not covered with rubbish or material of any kind. No one other than an authorized agent of the municipality shall be permitted to repair, adjust, remove, or replace any meter or any part thereof.

The consumer shall be responsible for damage to meters and/or meter settings where such damage is caused by a change in grade of the lot or by carelessness or negligence of the consumer or his agent or employee or any member of his family, such consumer will be billed for the actual cost of repair or replacement and such bill shall be paid within ten (10) days from the date of the mailing thereof. If such bill is not paid within ten (10) days the city may resort to the collection procedures provided in § 18-212. (1970 Code, § 13-207)

**18-208. Meter tests.** The municipality will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The municipality will also make tests or inspections of its meters at the request of the customer. However, if a test required by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the municipality. (1970 Code, § 13-208)

**18-209. Relocation of meters.** If any meter is relocated on application of and to suit the convenience of the consumer or where relocation of the meter is required because of change in grade of lot, each relocation and setting shall be made by the municipality at the expense of the consumer. The bill rendered to the consumer for the expense thereof shall be paid within ten (10) days from the date of mailing such bill and if not paid within said ten (10) days the municipality may collect the bill as provided in § 18-212. (1970 Code, § 13-209)

**18-210. Service deposits.** (1) In addition to payment of all water and sewer connection fees if required to be paid by a consumer for premises where no existing service connections exist, a consumer of water and sewer services from the city shall deposit with the city in cash as security for payment of service to be rendered as follows:

(a) By an owner of the fee simple title to the premises, by a holder of an estate for life thereto, or by a beneficiary in possession of the premises under a trust arrangement thereon, the amount of fifty dollars (\$50.00).

(b) By any other applicant including, but not limited to, a tenant, lessee, renter or other permissive user of the premises, the amount of two hundred dollars (\$200.00).

(c) When the city determines that usage at the premises for domestic, industrial or commercial purposes will require or result in substantial use of a larger quantity of water than used by an average residential consumer, the city may require a larger security deposit which may be in cash, by acceptable payment surety bond or by irrevocable pledge of a bank certificate of deposit.

(2) Deposits shall be applied in payment of current monthly bills and such deposit shall in no wise affect the municipality's rights arising from non-payment of bills as provided in this chapter.

(3) The municipality will refund the deposit upon written notice to discontinue and upon receipt of payment in full for water metered and for use of the sewerage system to such consumer. No interest shall be payable by the city on any deposit made pursuant hereto. (1970 Code, § 13-210, as amended by Ord. #178, Dec. 1995, and Ord. #260, Oct. 2010)

**18-211. Schedule of rates and charges for water and sewer services.** (1) The rates and charges per month for the use of the water and sewer services rendered by the water works and sewer systems of the city shall be in accordance with the following rates and charges:

(a) For water service rendered to premises inside the corporate limits:

(i) To a single family dwelling or residential duplex for domestic household use and to churches:

For the first 1,500 gallons or fraction thereof . . . . . \$18.77  
 For the next 1,000 gallons or fraction thereof . . . . . \$ 4.96  
 For each additional 1,000 gallons or fraction thereof . . . . \$ 5.12

(ii) To commercial premises, schools, apartment houses, and governmental facilities:

For the first 1,500 gallons or fraction thereof . . . . . \$26.34  
 For the next 1,000 gallons or fraction thereof . . . . . \$ 5.83  
 For each additional 1,000 gallons or fraction thereof . . . . \$ 6.01

(iii) To industrial premises:

For the first 1,500 gallons or fraction thereof . . . . . \$32.17  
 For the next 1,000 gallons or fraction thereof . . . . . \$ 5.83  
 For each additional 1,000 gallons or fraction thereof . . . . \$ 6.01

(b) For water service rendered to premises outside the corporate limits:

(i) To a single family dwelling or residential duplex for domestic household use and to churches:

For the first 1,500 gallons or fraction thereof . . . . . \$26.66  
 For the next 1,000 gallons or fraction thereof . . . . . \$ 7.45  
 For each additional 1,000 gallons or fraction thereof . . . . \$ 7.67

(ii) To commercial premises, schools, apartment houses, and governmental facilities:

For the first 1,500 gallons or fraction thereof . . . . . \$26.34  
 For the next 1,000 gallons or fraction thereof . . . . . \$ 5.83  
 For each additional 1,000 gallons or fraction thereof . . . . \$ 6.01

(iii) To industrial premises:

For the first 1,500 gallons or fraction thereof . . . . . \$32.17  
 For the next 1,000 gallons or fraction thereof . . . . . \$ 5.83  
 For each additional 1,000 gallons or fraction thereof . . . . \$ 6.01

(c) For sewer service rendered to premises inside or outside the corporate limits for the classifications of customers as provided in subsections (1)(a) and (1)(b) the rate charged for sewer service shall be calculated at one hundred forty-five percent (145%) of the amount charged to the user for water service rendered to the premises.

(d) Charges rendered to a user of municipal water and sewer services are deemed to be the net amount due therefor if paid in full on or before the fifteenth (15th) day of the month following the month in which the services are rendered. If not so promptly paid a gross amount due for such services shall be one hundred fifteen percent (115%) of the net amount due.

An amount equal to one hundred percent (100%) of the charges for water used by the consumer during the billing period.

The charges rendered to a consumer in accordance with the foregoing rates shall be considered the net amount due to the city for the services rendered provided they are paid on or before the 15th day of the

month following the month in which the services are rendered. If not paid on or before the 15th day of the month following the month in which the services are rendered then the amount of the charges for the services shall be due in a gross amount which shall be equal to the amount due based on the foregoing rates plus ten percent (10%) thereof.

An amount equal to one hundred and fifteen percent (115%) of the charges for water used by the consumer during the billing period.

The charges rendered to a consumer in accordance with the foregoing rates shall be considered the net amount due to the city of the services rendered provided they are paid on or before the 15th day of the month following the month in which the services are rendered. If not paid on or before the 15th day of the month following the month in which the services are rendered then the amount of the charges for the services shall be due in a gross amount which shall be equal to the amount due based on the foregoing rates plus ten percent (10%) thereof.

(2) The owner, tenant, or occupant of each lot or parcel of land which abuts upon a street, public way or other land containing a sanitary sewer, the elevation of which lot will permit a connection with such sanitary sewer and upon which lot or parcel of building or buildings are situated for residential, commercial or other use are hereby required to pay the sewer charge from and after the effective date of this chapter. (1970 Code, § 13-211, as amended by Ord. #260, Oct. 2010, Ord. #265, June 2011, Ord. #273, June 2012, Ord. #284, July 2015, and Ord. #295, June 2016 *Ch5\_6-9-20*)

**18-212. Meter reading, billing, and enforcement.** (1) Meters will be read and the consumer billed jointly for the water and sewerage each month. All bills shall be payable at the city hall.

(2) The municipality's meter reading agent or other properly authorized employee shall have access at all reasonable hours to the premises supplied with water, for the purpose of reading, inspecting, repairing or removing meters.

(3) Charges for water and sewer services shall be billed jointly and shall be payable at the same time. The municipality will not accept payment of the water charge unless the sewer charge, if any, is paid at the same time. Such refusal to make payment of either charge shall be deemed failure on the part of the user to pay both charges. If charges for water or sewer services are not paid in full on or before the twenty-fifth (25<sup>th</sup>) day of the month following the month in which the services were rendered all water and/or sewer services shall be discontinued to the premises until all delinquent charges have been paid in full together with all applicable re-connection fees and deposit requirements.

(4) If a check delivered to the city for payment of water or sewer services or in payment of any other required fee or deposit is returned by the bank on which drawn unpaid for any reason the consumer of the services or obligor for the fee or deposit shall pay to the city the amount thereof and in

addition shall pay a returned check charge of thirty dollars (\$30.00) within five (5) days of notice of such return as a condition for continuation of service.

(5) If a customer requests a meter to be re-read to verify billing charges the customer shall pay a fee in advance of twenty dollars (\$20.00). If the re-reading results there was an error in the billing that was made then such fee shall be credited to the customers billing account.

(6) Customers having rental property who request that water service be turned off and turned on for cleaning and maintenance of the property there shall be a charge paid in advance of ten dollars (\$10.00) for each action requested.

(7) If a customer requests that water service be turned on or turned off outside of regular business hours of the city or on Saturdays, Sundays, and municipal holidays there shall be paid a fee of forty dollars (\$40.00) for each action in addition to the fee otherwise required to be paid for such service pursuant to this title. (1970 Code, § 13-212, as amended by Ord. #260, Oct. 2010, Ord. #273, June 2012, and Ord. #290, Dec. 2015)

**18-213. Termination of service by the consumer.** The consumer or property owner shall notify the municipality of the time the served property becomes vacant. Otherwise, the consumer or property owner shall be responsible for any damage to the property of the municipality and for all water metered and for use of the sewerage system to such property up until receipt of such vacancy notice.

The municipality will presume service is being rendered from the time water is turned on at the request of the consumer until the consumer or property owner gives it written notice to discontinue the service and charges will be made accordingly. (1970 Code, § 13-213)

**18-214. Discontinuance or refusal of service.** If service has been discontinued for non-payment of bills or for any violations of this chapter, service to such consumer will not be resumed by the municipality until the unpaid bill or bills have been paid in full and/or the violation of any of the provisions of this chapter has ceased or been eliminated. (1970 Code, § 13-214)

**18-215. Re-connection charge.** Water shall not be turned into any water line for any purpose by anyone except an authorized employee of the municipality. (1970 Code, § 13-215, as amended by Ord. #171, June 1995, and replaced by Ord. #290, Dec. 2015)

**18-216. Municipality not compelled to construct lines.** The provisions of this chapter shall in no way be construed as requiring the municipality to construct water mains and sewer mains on streets, alleys, or on private property where such mains are not already laid. (1970 Code, § 13-216)

**18-217. Inspections.** The municipality shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water or sewer service is furnished or at any later time. The municipality reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the municipality.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the municipality liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1970 Code, § 13-217)

**18-218. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the municipality shall be and remain the property of the municipality. Each customer shall provide space for and exercise proper care to protect the property of the municipality on his premises. In the event of loss or damage to such property arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1970 Code, § 13-218)

**18-219. Customer's responsibility for violations.** Where the municipality furnishes water or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1970 Code, § 13-219)

**18-220. Supply and resale of water.** All water shall be supplied within the municipality exclusively by the municipality, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the municipality. (1970 Code, § 13-220)

**18-221. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the municipality. (1970 Code, § 13-221)

**18-222. Limited use of unmetered private fire line.** Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the municipality.

All private fire hydrants shall be sealed by the municipality, and shall be

inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the municipality a written notice of such occurrence. (1970 Code, § 13-222)

**18-223. Damages to property due to water pressure.** The municipality shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the municipality's water or sewer mains. (1970 Code, § 13-223)

**18-224. Liability for cutoff failures.** The municipality's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the municipality has failed to cut off such service.

(2) The municipality has attempted to cut off a service but such service has not been completely cut off.

(3) The municipality has completely cut off a service but subsequently the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the municipality's main.

Except to the extent stated above, the municipality shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the municipality's cutoff. Also, the customer (and not the municipality) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1970 Code, § 13-224)

**18-225. Restricted use of water.** In times of emergencies or in times of water shortage, the municipality reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1970 Code, § 13-226)

**18-226. Interruption of service.** The municipality will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The municipality shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water system, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The municipality shall not be liable for any damages from such interruption of service or for damages from the resumption of service without

notice after any such interruption. (1970 Code, § 13-225)

**18-227. Limited abatement of sewer use charge - swimming pools.**

(1) Residential patrons of the municipal waterworks also receiving municipal sewer service will be allowed not more than once in any calendar year to fill an on-premises residential swimming pool and receive a commensurate abatement of charges for sewer use to those premises as hereinafter set forth.

(2) To obtain this special dispensation the residential swimming pool shall have:

(a) An operationally capable and functioning commercial filtering system;

(b) Be free of an impermissible cross-connection as defined in chapter 4 of title 18 of the McEwen Municipal Code; and

(c) Be free of an unrepaired leak at the time of filling.

(3) To obtain a dispensation the patron shall:

(a) File a written request therefor with the recorder paying a non-refundable inspection fee of twenty-five dollars (\$25.00);

(b) Not commence a filling operation until:

(i) A municipal employee of the water and wastewater treatment department has been on the premises and inspected the facilities to determine that no cross-connection exists and that the swimming pool is then empty and after which has filed a report with the recorder that the swimming pool is empty and that no possible cross-connection exists; and

(ii) The recorder has issued to the patron in writing a notice to proceed.

(4) After receiving the notice to proceed the swimming pool must be filled within an immediate period thereafter not to exceed forty-eight (48) hours. When so completed the patron will notify the recorder that the filling has been completed. The recorder will then cause a reinspection to be performed by the water and wastewater treatment department to verify the timely completion of the refilling.

(5) Upon such satisfactory completion the recorder is authorized to thereafter abate from the patron's sewer use charges a dollar amount of sewer use charges equivalent to the water consumption used to fill the swimming pool. Such consumption amount will be based on the actual volume capacity of the swimming pool or the volume capacity calculated based on the patron's average volume of water usage for the previous three (3) billing cycles.

(6) If during this filling process there is an accidental run over of water all water used will be charged to the patron without an abatement of charges.

(7) A leak occurring in the swimming pool once it has been filled due to an rupture of the vessel causing a sudden loss of the water volume may in the discretion of the city be grounds to waive the onetime seasonal limitation on the abatement of charges credit, but no refilling will be approved until the rupture

has been satisfactorily corrected. A slow leakage or natural evaporation resulting in loss of water volume in the swimming pool will not qualify for participation by the patron in this abatement of charges program.

(8) The water and wastewater department will maintain a current list of all above and below ground swimming pools and will make periodic on-site inspections to assure compliance with all cross-connection regulations. (as added by Ord. #288, Oct. 2015)

**18-228. Limited abatement of sewer use charges - water pipe leaks.** A consumer/patron of the municipal wastewater system will be granted relief from metered monthly charges by abatement of some or all of monthly sewer use charges incurred by the consumer/patron subject to the following terms and criteria:

(1) The consumer/patron must promptly submit a request in writing to the city recorder for such relief setting forth the details and reason therefor. The request must be supported by a detailed written statement by the person or firm making repairs reciting the nature and location of the leaking or ruptured pipe; the date and details of the repairs conducted; certifying that the water consumed as a result of the leak or rupture did not enter the municipal wastewater system; and that repairs were completed and the cost therefor paid.

(2) On submission of such request with the required documentation the Recorder will analyze the previous three (3) months of usage to the premises where the leak or ruptured pipe occurred. The previous three (3) months of usage will be averaged.

(3) With approval and concurrence of the mayor the city recorder is authorized to abate so much of the monthly sewer use charge for that billing month to an amount equal to lesser of that sewer use charge for that month or the average of the sewer use charges at the premises for the previous three (3) months of usage.

(4) Such abatement will be granted for only one (1) month in any calendar year.

(5) A consumer/patron aggrieved by a denial of the requested abatement may at the meeting of the board of mayor and aldermen next occurring next after such denial present the request for review by the board of the propriety of the denial. Relief from a denial will be granted only by a vote of not less than four (4) aldermen.

(6) A denial by the city recorder of an abatement will not relieve the customer/patron from payment in full of the billing statement as stated and for which relief is requested. If after appearance and presentation of the grievance to the board an abatement is granted the amount of the abatement will be refunded. Failure of the customer/consumer to appear and present the request to the board will be deemed a waiver of the consideration of the request and the action of the city recorder will not be further considered by the board except on

adoption of a motion to reconsider agreed by not less than five (5) aldermen. (as added by Ord. #297, March 2017 *Ch5\_6-9-20*)

## CHAPTER 3

### GENERAL WASTEWATER REGULATIONS

#### SECTION

- 18-301. Purpose and policy.
- 18-302. Administrative.
- 18-303. Definitions.
- 18-304. Proper waste disposal required.
- 18-305. Private domestic wastewater disposal.
- 18-306. Connection to public sewers.
- 18-307. Septic tank effluent pump or grinder pump wastewater systems.
- 18-308. Regulation of holding tank wste disposal or trucked in waste.
- 18-309. Discharge regulations.
- 18-310. Enforcement and abatement.
- 18-311. -- 18-359. Deleted.

**18-301. Purpose and policy.** This chapter sets forth uniform requirements for users of the City of McEwen, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health,
- (2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;
- (3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;
- (4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
- (7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the City of McEwen must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the city who are, by

implied contract or written agreement with the city, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 4 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 4 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (1970 Code, § 8-201, as replaced by Ord. #237, Nov. 2005, and Ord. #263, May 2011)

**18-302. Administrative.** Except as otherwise provided herein, the mayor shall serve as local administrative officer of the city and shall administer, implement, and enforce the provisions of this chapter. The board of mayor and aldermen shall serve as the local hearing authority. (1970 Code, § 8-202, as replaced by Ord. #237, Nov. 2005, and Ord. #263, May 2011)

**18-303. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, et seq.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(4) "Authorized or duly authorized representative of industrial user:

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure 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 agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in paragraphs (a)-(c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-309 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty (20) centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The National Categorical Pretreatment Standards as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "City." The Board of Mayor and Aldermen, City of McEwen, Tennessee.

(10) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(11) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The term "control authority" shall refer to the

"approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(20) "Environmental Protection Agency, or EPA." The U. S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(21) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(22) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(23) "Grease interceptor." An interceptor whose rated flow is fifty (50) gallons per minute (50 g.p.m.) or less and is generally located inside the building.

(24) "Grease trap." An interceptor whose rated flow is fifty (50) gallons per minute (50 g.p.m.) or more and is located outside the building.

(25) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(26) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(27) "Indirect discharge." The introduction of pollutants into the WWF from any non-domestic source.

(28) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. §1342).

(29) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(30) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(31) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(32) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(33) "Local administrative officer." The chief administrative officer of the local hearing authority.

(34) "Local hearing authority." The board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-405.

(35) "National categorical pretreatment standard" Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(36) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) System.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is 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 parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph

(38) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act as amended.

(39) "Pass-through." A discharge which exits the Wastewater Facility

(WWF) into waters of the state 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 WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(40) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(44) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(48) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See WWF, Wastewater Facility, found in definition number 63, below.

(49) "Shall" is mandatory; "May" is permissive.

(50) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(51) "Significant noncompliance." Per 0400-40-14.08(6)(b)8. (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-405(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90)

day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(52) "Slug." 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 WWF's regulations, local limits, or permit conditions.

(53) "Standard Industrial Classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(54) "State." The State of Tennessee.

(55) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(56) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(58) "Surcharge." An additional fee assessed to a user who discharges compatible pollutants at concentrations above the established surcharge limits. Surcharge limits are the level at which the permit holder will be billed higher rates to offset the cost of treating wastewater which exceeds the surcharge limits. Exceeding a surcharge limit but not a monthly average or daily maximum limit will not result in enforcement action.

(59) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(60) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(61) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(62) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability, Tennessee Code Annotated, § 68-221-201.

(63) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(64) "Wastewater facility" Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

(65) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(66) "0400-40-14." Chapter 0400-40-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (1970 Code, § 8-203, as replaced by Ord. #237, Nov. 2005, and Ord. #263, May 2011, and amended by Ord. #296, Oct. 2016 *Ch5\_6-9-20*)

**18-304. Proper waste disposal required.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities

directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Discharging into the sanitary sewer without permission of the city is strictly prohibited and is deemed "theft of service."

(6) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-305 of this chapter.

(7) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(8) Users have a duty to comply with the provisions of this chapter in order for the city to fulfill the stated policy and purpose. Significant industrial users must comply with the provisions of this chapter and applicable state and federal rules according to the nature of the industrial discharge. (1970 Code, § 8-204, as replaced by Ord. #237, Nov. 2005, and Ord. #263, May 2011)

**18-305. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-304(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work

at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department. (1970 Code, § 8-205, as replaced by Ord. #237, Nov. 2005, and Ord. #263, May 2011)

**18-306. Connection to public sewers.** (1) Application for service.

(a) There shall be two (2) classifications of service;

(i) Residential and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way 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. Any such connections which already exist on the effective date of this chapter shall be completely and

permanently disconnected within sixty (60) days of the effective day of this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the city at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system - Four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four inch (4") sewers - one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will

produce a velocity when flowing full of at least two feet (2') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe Schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) 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 pump system according to § 18-307 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications by the

ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. (a) Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow storm water or ground water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(b) The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for S e w e r a g e W o r k s , l o c a t e d a t <http://www.state.tn.us/environment/wpc/publications/>.

Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in

design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (1970 Code, § 8-206, as replaced by Ord. #237, Nov. 2005, and Ord. #263, May 2011)

**18-307. Septic tank effluent pump or grinder pump wastewater systems.** When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the city.

(1) **Equipment requirements.** (a) Septic tanks shall be of water tight construction and must be approved by the city.

(b) Pumps must be approved by the city and shall be maintained by the city.

(2) **Installation requirements.** Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) **Costs.** STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) **Ownership and easements.** Homeowners or developers shall provide the city with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the city to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) **Use of STEP and GP systems.** (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the city. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.

(7) Additional charges. The city shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call including but not limited to transportation, labor, materials, excavation, subcontractors, engineering fees, cleanup expenses, and other expenses related to the service call. In addition if the city receives regulatory fines related to equipment failure and sewage overflows all such fines will be passed on to the user. (1970 Code, § 8-207, as replaced by Ord. #237, Nov. 2005, and Ord. #263, May 2011)

**18-308. Regulation of holding tank waste disposal or trucked in waste**. (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-407 of this title. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any

person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of McEwen.

(5) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (1970 Code, § 8-208, as replaced by Ord. #237, Nov. 2005, and Ord. #263, May 2011)

**18-309. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section or other pretreatment standard may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of § 18-310 or § 18-405. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, wastestreams with a closed cup flash point of less than one thousand four hundred Fahrenheit (1,400 F) or six hundred Celsius (600 C) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and other flammable substances.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent

grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Celsius (40° C one hundred four degrees Fahrenheit (104° F)) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 4 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria, unless specifically allowed by their discharge permit according to chapter 4 of this title. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A Plant Protection Criteria

Parameter	Maximum Concentration (mg/l)
Arsenic	0.100
Benzene	0.01875
Cadmium	0.00873
Carbon Tetrachloride	1.500
Chloroform	0.22368
Chromium III	0.250
Chromium IV	0.01528
Copper	0.14262
Cyanide	0.01368
Ethybenzene	0.040
Lead	0.1205
Mercury	0.00021
Methylene chloride	0.09615
Naphthalene	0.0125
Nickel	0.23965
Total Phenol	0.11364
Silver	0.02941
Tetrachloroethylene	0.13889
Toluene	0.375
Total Phthalate	0.16974
Trichlorethlene	0.100
1,1,1-Trichloroethane	0.250
1,2 Transdichloroethylene	0.00075
Zinc	0.290

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plant, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners

whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable city guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the city is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under § 18-402 to regulate the discharge of fat, oil and grease. (as added by Ord. #237, Nov. 2005, replaced by Ord. #263, May 2011, and amended by Ord. #296, Oct. 2016 *Ch5\_2-9-20*)

**18-310. Enforcement and abatement.** Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 4. Repeated or continuous violation of this ordinance is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation.

The city may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, including if applicable legal costs, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (as added by Ord. #237, Nov. 2005, and replaced by Ord. #263, May 2011)

**18-311. – 18-359. [Deleted].** (as added by Ord. #237, Nov. 2006, and deleted by Ord. #263, May 2011)

**CHAPTER 4****INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS****SECTION**

- 18-401. Industrial pretreatment.
- 18-402. Discharge permits.
- 18-403. Industrial user additional requirements.
- 18-404. Reporting requirements.
- 18-405. Enforcement response plan.
- 18-406. Enforcement response guide table.
- 18-407. Fees and billing.
- 18-408. Validity.

**18-401. Industrial pretreatment.** In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this title the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the General and Specific discharge regulations specified in § 18-309 of this title.

(2) Users wishing to discharge pollutants at higher concentrations than Table A Plant Protection Criteria of § 18-309, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-405.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as local limits, Table B or other applicable state and federal pretreatment rules which may be in effect or take effect after the passage of this chapter.

**Table B -- Local Limits**

Pollutant	Monthly Maximum (mg/l)	Average* Concentration
Arsenic	0.615	
Benzene	0.124	
Cadmium	0.0439	
Carbon Tetrachloride	10.12	
Chloroform	1.494	
Chromium III	1.6275	
Chromium IV	0.07314	
Copper	0.902685	
Cyanide	0.067	
Ethylbenzene	0.267	
Lead	0.7983	
Mercury	0.0008175	
Methylene chloride	0.634	
Napthalene	0.069	
Nickel	1.5576	
Phenol	0.46707	
Silver	0.1685	
Tetrachloroethylene	0.934	
Toluene	2.516	
Total Phthalate	1.047	
Trichloroethylene	0.672	
1,1,1-Trichloroethane	1.684	
1,2 Transdichloroethylene	0.048	
Zinc	1.7055	

(5) Surcharge threshold and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge thresholds. Maximum concentrations may also be established for some users.

**Table C--Surcharge and Maximum Limits**

<u>Parameter</u>	<u>Surcharge Limit</u>	<u>Maximum Concentration</u>
Ammonia	15 mg/L	35 mg/L
Oil and Grease	50 mg/L	150 mg/L
BOD	300 mg/L	700 mg/L
Suspended Solids	300 mg/L	700 mg/L

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(9) Combined wastestream formula. When wastewater subject to categorical pretreatment standards is mixed with wastewater not regulated by the same standard, the permitting authority may impose an alternate limit

using the combined wastestream formula. (as added by Ord. #263, May 2011, and amended by Ord. #296, Oct. 2016 *Ch5\_6-9-20*)

**18-402. Discharge permits.** (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-306 of this title and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in § 18-309 and § 18-401 discharge variations -- daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or

processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the

local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws.

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary;

(G) Requirement to notify the WWF immediately if changes in the users processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(F) Requirements for notification of the city sixty

(60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. 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 user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. 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 premises, or a new or changed operation without the prior written approval of the local administrative officer. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted

discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, 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 to governmental agencies for use; related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (as added by Ord. #263, May 2011)

**18-403. Industrial user additional requirements.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may,

however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide 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 control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for

the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any

expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (as added by Ord. #263, May 2011)

**18-404. Reporting requirements.** Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-405.

(1) **Baseline monitoring report.** (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 WWF shall submit to the superintendent a report which contains the information listed in paragraph (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 paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. 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 WWF from the regulated processes.

(iv) 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.

(v) 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 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(F) 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 to evaluate compliance with the pretreatment standards

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods;

(H) 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;

(I) 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 WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative 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.

(d) 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 § 18-404(2) of this chapter.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-404(14) of this chapter and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-404(1)(d) of this chapter:

(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, at 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,

(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 WWF, any user subject to such pretreatment standards and requirements shall submit to

the superintendent a report containing the information described in § 18-404(1)(b)(iv) and (v) of this chapter. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this title.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) of this section, 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 sixty (60) 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 § 18-401 of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-402 of this chapter or modify an existing wastewater discharge permit under s§ 18-402 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report 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 WWF, 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 title.

(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.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. 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 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.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the

EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-404(5) of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-404(1), 18-404(3), and 13-404(4) of this chapter.

(b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any

substance not otherwise permitted to be discharged by this title, a permit issued there under, or any applicable federal or state law.

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

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

(a) Except as indicated in sections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the 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 twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by 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 ninety (90) day compliance reports required in subsections (1) and (3) of this section, 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 subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this title shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this title, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-402. 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.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

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.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (as added by Ord. #263, May 2011)

**18-405. Enforcement response plan.** Under the authority of Tennessee Code Annotated, § 69-3-123 et. seq.

(1) Complaints; notification of violation; orders. (a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the McEwen Wastewater Regulations,

pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-405(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the city or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. 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 limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment

facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following, under the authority of Tennessee Code Annotated, § 69-3-124:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subdivision (a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in

the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Humphreys County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (b).

(viii) Any person to whom an emergency order is directed under § 18-405(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and 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, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be

served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125.

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders. Under the authority of Tennessee Code Annotated, § 69-3-126.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the city resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. Under the authority of Tennessee Code Annotated, § 69-3-127, the local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-402(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-309 of chapter 3.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance: For the purpose of this guide, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF 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).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-405(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after

their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).<sup>3</sup>

(9) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, 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 (C), (D) or (H) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through

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<sup>3</sup>The Enforcement Response Plan Guide Table (Appendix A) referred to herein is available for review in the recorder's office.

(including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance; or

(g) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(h) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (as added by Ord. #263, May 2011)

**18-406. Enforcement response guide table.** (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this title.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A to impose sanctions or penalties for the violation of this title. (as added by Ord. #263, May 2011)

**18-407. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

(a) Inspection fee and tapping fee;

(b) Fees for applications for discharge;

(c) Sewer use charges;

(d) Surcharge fees (see Table C);

(e) Waste hauler permit;

(f) Industrial wastewater discharge permit fees;

(g) Fees for industrial discharge monitoring; and

(h) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-402 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) Sewer user charges.<sup>4</sup> The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-407 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	\$50.00-\$500.00
Category 3	\$500.00-\$1,000.00
Category 4	\$1,000.00-\$5,000.00
Category 5	\$5,000.00-\$10,000.00

(as added by Ord. #263, May 2011)

**18-408. Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city. (as added by Ord. #263, May 2011)

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<sup>4</sup>Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

## CHAPTER 5

### CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>5</sup>

#### SECTION

- 18-501. Definitions.
- 18-502. Standards.
- 18-503. Construction, operation, and supervision.
- 18-504. Statement required.
- 18-505. Inspections.
- 18-506. Correction of existing violations.
- 18-507. Use of protective devices.
- 18-508. Unpotable water to be labeled.
- 18-509. Violations.

**18-501. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system which furnishes water to the City of McEwen and certain surrounding area for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross connection." Any physical arrangement whereby the public water system is connected, directly or indirectly, with any other water supply system, whether sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water system is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting

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<sup>5</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

contamination to the public water system.

(6) "Person." Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or federal agency.

(7) "Superintendent." That person in charge of the operation of the City of McEwen Water System or the authorized representative of that person. (1970 Code, § 8-301, as renumbered by by Ord. #263, May 2011)

**18-502. Standards.** The City of McEwen Public Water System is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1970 Code, § 8-302, as renumbered by by Ord. #263, May 2011)

**18-503. Construction, operation, and supervision.** It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Health, and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the superintendent of the such as manager of the City of McEwen Public Water System. (1970 Code, § 8-303, as renumbered by by Ord. #263, May 2011)

**18-504. Statement required.** Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1970 Code, § 8-304, as renumbered by by Ord. #263, May 2011)

**18-505. Inspections.** The superintendent shall inspect all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the superintendent in accordance with guidelines acceptable to Tennessee Department of Health. The superintendent or authorized representative shall have the right to enter at any reasonable time any property served by a connection to the City of McEwen Public Water System for the purpose of

inspecting the piping system therein for cross-connections, auxiliary intakes, bypasses or interconnections. On request, the owner, lessee, or occupant or any property so served shall furnish any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (1970 Code, § 8-305, as renumbered by by Ord. #263, May 2011)

**18-506. Correction of existing violations.** Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the superintendent.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the City of McEwen Public Water System, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the superintendent shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person. Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the superintendent of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard(s) is corrected immediately. (1970 Code, § 8-306, as renumbered by by Ord. #263, May 2011)

**18-507. Use of protective devices.** Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the superintendent or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply;
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing; or
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the superintendent shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be a reduced pressure zone type backflow

preventer approved by the Tennessee Department of Health as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the superintendent prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the City of McEwen Public Water System shall have the right to inspect and test the device on an annual basis or whenever deemed necessary by the superintendent.

Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep any protective device working properly. The expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the superintendent. The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the superintendent. (1970 Code, § 8-307, as renumbered by by Ord. #263, May 2011)

**18-508. Unpotable water to be labeled.** The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1970 Code, § 8-308, as renumbered by by Ord. #263, May 2011)

**18-509. Violations.** The requirements contained herein shall apply to all premises served by the City of McEwen Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), and each day of continued violation after conviction shall constitute a separate offense. (1970 Code, §§ 8-309 and 8-310, as renumbered by by Ord. #263, May 2011)

**TITLE 19**

**ELECTRICITY AND GAS**

**CHAPTER**

**1. GAS.**

**CHAPTER 1**

**GAS<sup>1</sup>**

**SECTION**

19-101. To be furnished under franchise.

**19-101. To be furnished under franchise.** Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.<sup>2</sup>

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<sup>1</sup>Municipal code reference  
Gas code: title 12.

<sup>2</sup>The agreements are of record in the office of the city recorder.

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

**1. LOCAL GOVERNMENT EMERGENCY ASSISTANCE POLICIES.<sup>1</sup>**

**CHAPTER 1**

**LOCAL GOVERNMENT EMERGENCY ASSISTANCE POLICIES**

**SECTION**

- 20-101. Definitions.
- 20-102. Authority to make requests or respond to requests.
- 20-103. Command of operations when city is requesting party.
- 20-104. Command of operations when city is responding party.
- 20-105. Requesting party must have furnished city with its policies and procedures.
- 20-106. No duty of city to respond to any request, etc.
- 20-107. Determination of level of response.
- 20-108. Simultaneous requests for assistance.
- 20-109. Liability for damages, injuries, costs.
- 20-110. When chapter not applicable.

**20-101. Definitions.** (1) "Emergency assistance" shall mean fire-fighting, law enforcement, public works, emergency medical, civil defense, or any other emergency assistance that is provided by the City of McEwen, Tennessee or by any other local government as a responding unit of local government, or any combination of such forms of assistance, where the resources of the requesting local government are not adequate to handle an emergency at hand.

(2) "Local government" shall mean any incorporated city or town, any metropolitan government, any county, any utility district, any other regional or local district or authority or any electric cooperative, as established under the laws of the State of Tennessee.

(3) "Requesting party" shall mean a local government which requests emergency assistance.

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<sup>1</sup>An agreement establishing emergency assistance, mutual aid and interlocal cooperation relative to law enforcement activities entered into on November 14, 1995, by and between Humphreys County, the City of McEwen, the City of New Johnsonville and the City of Waverly is in the office of the recorder.

(4) "Responding party" shall mean a local government which responds to a request for emergency assistance. (1970 Code, § 1-1101)

**20-102. Authority to make requests or respond to requests.** All requests for emergency assistance made by the city and all requests for such assistance to be rendered by the city shall be done, performed and authorized only by the mayor of the city or in his absence by such person or official to whom he shall have delegated such authority in writing. No other person or official of the city shall be authorized to request or to authorize the rendering of emergency assistance by the city. (1970 Code, § 1-1102)

**20-103. Command of operations when city is requesting party.** When the city is the requesting party, the mayor, and when the city is the responding party, the senior officer on the scene of the emergency of any other local government, shall be in full command of the emergency as to strategy, tactics and overall direction of the operation and such person shall direct the actions of the responding party by relaying orders to the senior departmental officer in command of the responding party. (1970 Code, § 1-1103)

**20-104. Command of operations when city is responding party.** When the city is the responding party all orders and other directions of the operation received from the senior officer in charge of the requesting party shall be directed through the senior departmental officer of the city in command on the scene and by him directed to the employees or other agents of the city performing the emergency assistance. (1970 Code, § 1-1104)

**20-105. Requesting party must have furnished city with its policies and procedures.** No response to a request for emergency assistance shall be made by the city to any requesting party unless such requesting party has adopted appropriate policies and procedures which shall have been furnished to the city prior to the request being made. (1970 Code, § 1-1105)

**20-106. No duty of city to respond to any request, etc.** The city shall be under no duty to respond to any request for emergency assistance from any requesting party and shall be under no duty to remain on the scene of any emergency for any length of time if it shall have responded to a request. Once on the scene of any emergency under lawful authority the personnel and equipment of the city may be withdrawn at any time at the discretion of the mayor or in his absence by the senior departmental officer of the city on the scene and in command of the personnel and equipment of the city. (1970 Code, § 1-1106)

**20-107. Determination of level of response.** In determining the level of response to be made by the city to any request of a requesting party for

emergency assistance, the mayor shall make a reasonable appraisal of the emergency of the requesting party, consider the available resources of the requesting party or any other responding party, the available resources of the city, and such other factors as may be appropriate at the time. In responding to a request made by a requesting party the greatest or maximum response that shall be permitted to be made by the city shall be fifty percent (50%) of the personnel and resources of the particular service or department of the city for which the emergency assistance is requested. (1970 Code, § 1-1107)

**20-108. Simultaneous requests for assistance.** In cases where two (2) or more requests for emergency assistance are made at or about the same time to the city, the mayor shall respond to the multiple requests by taking into consideration the relative degree of the emergency which shall exist in the jurisdiction of each requesting party. (1970 Code, § 1-1108)

**20-109. Liability for damages, injuries, costs.** (1) The city, when in the capacity of a requesting party, shall not be liable for damages to the equipment or personnel of a responding party in responding to the request by the city for emergency assistance, nor shall the city or its employees be liable for any damages caused by the negligence of the personnel of the responding party while enroute to or returning from the scene of an emergency within the city.

(2) The city shall be liable for damages caused by the negligence of the employees of a responding party while on the scene and under the command of the senior departmental officer of the city on the scene of the emergency occurring within the city, as is provided for liability imposed on the city generally by Tennessee Code Annotated, § 29-20-101 et seq.

(3) When in the capacity of a responding party the city shall not be liable for any property damage or bodily injury caused by the negligence of its employees while at the actual scene of any emergency in the jurisdiction of a requesting party.

(4) Before rendering emergency assistance the requesting party shall guarantee to the city that the requesting party shall reimburse to the city its actual costs incurred by way of the wages or compensation paid to employees of the city sent to the scene of the emergency in the jurisdiction of the requesting party and for the costs of all motor vehicle operation fuels and lubricants consumed by the equipment of the city used in rendering the emergency assistance. Likewise, the city shall reimburse to any responding party for its cost of wages of compensation of its personnel and for fuels and lubricants consumed in operating its equipment sent to the city in response to a request for emergency assistance made by the city. (1970 Code, § 1-1109)

**20-110. When chapter not applicable.** These provisions hereof shall have no applicability to the rendering of emergency assistance by the city or to the receiving by the city of emergency assistance pursuant to any specific

mutual aid agreement or interlocal cooperation agreement that may have been entered into or which shall be hereafter entered into by the city with any local government. (1970 Code, § 1-1110)

**ORDINANCE NO. 184****AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF McEWEN TENNESSEE.**

WHEREAS some of the ordinances of the City of McEwen are obsolete, and

WHEREAS some of the other ordinances of the City are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of McEwen, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "McEwen Municipal Code," now, therefore:

BE IT ENACTED AND ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF McEWEN, TENNESSEE, THAT:

**Section 1. Ordinances codified.** The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "McEwen Municipal Code," hereinafter referred to as the "municipal code."

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

**Section 4. Continuation of existing provisions.** Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

In any case wherein the municipal court finds the defendant guilty of a violation of an ordinance of the city there shall be assessed costs of the prosecution of the proceeding in the amount of \$50.25 in addition to any fine or penalty imposed.

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

For each day's hard labor performed by a person convicted of a violation who is compelled by the municipal court to perform such hard labor in default of payment of the fine or penalty assessed, there shall be credited the sum of \$25 upon such fine or penalty so assessed and upon any additional costs imposed which the court finds he or she can pay, but neglects or refuses so to do.

Each day any violation of the municipal code continues shall constitute a separate civil offense. (1970 Code, modified, as amended by Ord. #190, Nov. 1997)

**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

**Section 7. Reproduction and amendment of code.** The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

**Section 8. Construction of conflicting provisions.** Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

**Section 9. Code available for public use.** A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

~~Section 10. Date of effect.~~ This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, March 11, 1997

John N. Winter  
Mayor

Jane M. Sparks  
Recorder

## ORDINANCE NO. 186

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE CITY OF McEWEN, TENNESSEE.

BE IT ENACTED AND ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF McEWEN, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in Change 1 to the City of McEwen Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the City of McEwen Municipal Code.

Change 1 includes revisions required to the municipal code when considering Ordinance Number 183 (February 1997). Code sections affected by this ordinance contain citations to the amending ordinance at the end of the code section.

Section 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be a civil defense, or wherever the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision shall be punishable by a penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the supplement or the municipal code or other applicable law. In any place in the supplement the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this supplement, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this supplement, it shall mean "a civil penalty."<sup>1</sup>

In any case wherein the municipal court finds the defendant guilty of a violation of an ordinance of the city there shall be assessed costs of the

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

prosecution of the proceeding in the amount of \$50.25 in addition to any fine or penalty imposed.

For each day's hard labor performed by a person convicted of a violation who is compelled by the municipal court to perform such hard labor in default of payment of the fine or penalty assessed, there shall be credited the sum of \$25 upon such fine or penalty so assessed and upon any additional costs imposed which the court finds he or she can pay, but neglects or refuses so to do.

When a civil penalty is imposed on any person for violating any provision of the supplement and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense. (as amended by Ord. #190, Nov. 1997)

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 6. Code available for public use. Three copies of the supplement shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 7. Date of effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed 1st reading June 10, 1997.

s/John N. Winstead  
Mayor

s/Jane M. Sparks  
Recorder