THE
MAYNARDVILLE
MUNICIPAL
CODE

Prepared by the

August 2015

Change 1
January 10, 2023

CITY OF MAYNARDVILLE, TENNESSEE

MAYOR

Ty Blakely

VICE MAYOR

Jennipher Ford

COMMISSIONERS

Charles McClure

Lawrence Thomas

Tim Young

INTERIM MANAGER

Robert Colvin

RECORDER

Gina Singletary

Preface

The Maynardville Municipal Code contains the codification and revision of the ordinances of the City of Maynardville, 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 7 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 pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

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

The able assistance of the codes team: Kelley Myers, ACP, Linda Winstead, Nancy Gibson, and Sandy Selvage, is gratefully acknowledged.

Kelley Myers, ACP
Municipal Codes Coordinator

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

1. General power to enact ordinances: (6-19-101)

2. All ordinances shall begin, "Be it ordained by the City of Maynardville as follows:" (6-20-214)

3. Ordinance procedure

(a) Every ordinance shall be read two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-23 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.

(b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.

(c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.

(d) No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. (6-20-215)

4. Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city.

No such ordinance shall take effect until the ordinance, or its caption, is published except as otherwise provided in chapter 54 part 5 of this title. (6-20-218)

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APPENDIX

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

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[1]Charter reference

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

Municipal code references

Building and plumbing: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Water and sewers: title 18.
Zoning: title 14.

CHAPTER 1

BOARD OF COMMISSIONERS[1]

SECTION

1-101. City elections. Regular Maynardville city elections for city commissioners shall be called by the Union County Election Commission and held on the fourth Tuesday of June in each even numbered year. (2001 Code, § 1-101)

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[1]Charter reference

For detailed provisions of the charter related to the election, and to general and specific powers and duties of, the board of commissioners, see Tennessee Code Annotated, title 6, chapter 20. (There is an index at the beginning of chapter 20 which provides a detailed breakdown of the provisions in the charter.) In addition, see the following provisions in the charter that outline some of the powers and duties of the board of commissioners:

- Appointment and removal of city judge: § 6-21-501.
- Appointment and removal of city manager: § 6-21-101.
- Compensation of city attorney: § 6-21-202.
- Creation and combination of departments: § 6-21-302.
- Subordinate officers and employees: § 6-21-102.
- Taxation
  - Power to levy taxes: § 6-22-108.
  - Change tax due dates: § 6-22-113.
  - Power to sue to collect taxes: § 6-22-115.
- Removal of mayor and commissioners: § 6-20-220.

1-102. Regular meetings. (1) All regular meetings of the board of commissioners of the city shall be open to the public, unless closed pursuant to state law.

(2) The board of commissioners shall hold regular monthly meetings at 7:00 P.M. on the second Tuesday of each month in the commission chambers at city hall. In the event any regular meeting of the board of commissioners falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the next succeeding Tuesday that is not a holiday.

(3) Any meeting of the board of commissioners may be adjourned to a later date and time, provided that no adjournment shall be for a longer period than until the next regular meeting.

(4) All regular meetings of the board of commissioners shall be held in the commission chambers at the city hall.

(5) The board of commissioners may, when necessary, change the time and place of a regularly scheduled meeting. The board shall set forth the circumstances necessitating such change. Twenty-four (24) hours prior to the meeting to be held pursuant to such change, the city recorder shall give each commissioner written notice, personally or by registered mail, of any change from the regular meeting days established by this section. (Ord. #213, March 2003, modified)

1-103. Special meetings. (1) The mayor or city recorder shall call special meetings of the board of commissioners upon at least twelve (12) hours written notice to each commissioner whenever the mayor, city manager or any two or more commissioners are of the opinion that the welfare of the city demands it.

(2) Whenever a special meeting shall be called, a notice in writing signed by the mayor or city recorder shall be filed with the city recorder and served upon each member of the board of commissioners, the city manager, city recorder and city attorney and served either in person or by notice left such person's place of residence or by other electronic means stating the date and hour of the meeting and the purpose for which such special meeting is called, and no business shall be transacted at such special meeting except such as is stated in the notice. (Ord. #213, March 2003)

1-104. Work sessions. The board of commissioners may meet informally in work or study sessions which shall be open to the general public at the call of the mayor or any two (2) members of the commission to review forthcoming programs of the city, receive progress reports on current programs or projects, or receive other similar information from the mayor, city recorder, city attorney or consultants to the city, provided that all discussions and conclusions thereon shall be informal. (Ord. #213, March 2003, modified)

1-105. Journal of proceedings. (1) A journal of all proceedings of the board of commissioners shall be kept by the city recorder and shall be entered in a book constituting the official record of the commission.

(2) The journal of proceedings shall be open to public inspection, except for proceedings of closed meetings as permitted by state law. (Ord. #213, March 2003)

1-106. Presiding officer. (1) The mayor shall preserve strict order and decorum at all regular and special meetings of the commission and confine members in debates to the question under discussion.

(2) The mayor shall state every question coming before the commission, announce the decision of the commission on all subjects and decide all questions of order, subject, however, to an appeal to the commission, in which event a majority vote of the commission shall govern and conclusively determine such question of order.

(3) The mayor shall have the right vote on all questions.

(4) The mayor shall sign all ordinances and resolutions adopted by the commission during his presence. In the absence of the mayor, the presiding officer shall sign such ordinances and resolutions as are adopted. (Ord. #213, March 2003, as amended by Ord. #223, Nov. 2003, modified)

1-107. Quorum. Three (3) members of the commission shall constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance shall be named in the minutes and may adjourn from day to day, and may compel the attendance of the absentees in such manner and under such penalties as the board may provide. (Ord. #213, March 2003, modified)

1-108. Rules of order. The rules of order and parliamentary procedure contained in Roberts Rules of Order Newly Revised shall govern the proceedings of the commission in all cases, unless they are in conflict with this ordinance. (Ord. #213, March 2003, modified)

1-109. Order of business. Promptly at the hour set on the day of each regular meeting, the members of the commission shall take their regular stations in the commission chambers, and the business of the commission shall be taken up for consideration and disposition in the following order:

(1) Roll call;
(2) Approval of minutes of previous meeting;
(3) Citizen comments;
(4) Unfinished business;
(5) New business;
(6) Report from the city manager;
(7) Report from the city attorney;

(8) Report from the city engineer;
(9) Reports from committees, commission members and other officers;
(10) Adjournment. (Ord. #213, March 2003, modified)

1-110. Agenda. All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the commission for consideration shall be delivered to the city recorder at least ninety-six (96) business hours prior to each commission meeting. Whereupon the city recorder shall immediately arrange a list of such matters according to the order of business and furnish each member of the commission, the mayor, and the city attorney with a copy of the same at least twenty-four (24) hours prior to the commission meeting and as far in advance of the meeting as time for preparation will permit. (Ord. #213, March 2003, modified)

1-111. Manner of addressing the commission--time limit. Each person addressing the commission shall step to the podium in front of the rail, shall give his name and address in an audible tone of voice for the record, and unless further time is granted by the commission, shall limit his address to three (3) minutes (Ord. #213, March 2003, modified)

1-112. Ordinances, resolutions, motions and contract. (1) All ordinances shall be prepared and presented to the board of commissioners in printed, electronic, and/or typewritten form.

(2) All ordinances, resolutions and contract documents shall, before presentation to the commission, have been approved as to form by the city attorney.

(3) The city recorder shall prepare copies of all proposed ordinances for distribution to all members of the commission before the commission meeting at which the ordinance is to be introduced. If the ordinance carries an emergency clause, copies of the ordinance must be distributed prior to or during the meeting of the commission at which said ordinance is to be considered.

(4) Every ordinance shall be read two (2) different days in open session before its adoption, and not less than one week shall elapse between first and second readings. An ordinance shall not take affect until fifteen (15) days after the first passage thereof, except in the case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided that it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency. The unanimous vote of all members of the board of commissioners present shall be required to pass an emergency ordinance.

(5) An affirmative vote of at least a majority of the members of the commission shall be necessary to pass an ordinance, resolution, motion or any other proposition. When any vote is called, each commission member shall respond "yes (aye)," "no" "abstain," or "pass." Any commission member who

responds "pass" shall be given an opportunity at the end of the roll call to change his vote to "yes," "no," or "abstain." Any "pass" response not so changed shall be reported as an abstention.

(6) In the event a tie in votes on any motion, the motion shall be considered lost.

(7) Upon final passage, a number shall be assigned to each ordinance or resolution by the city recorder.

(8) When passed by the commission, an ordinance shall be signed by the presiding officer and be attested by the city recorder and approved as to form by the city attorney; and it shall be immediately filed and thereafter preserved in the office of the city recorder. (Ord. #213, March 2003, modified)

CHAPTER 2

RECORDER[1]

SECTION

1-201. Appointment. There shall be a city recorder who also serves as finance director and shall be appointed by the city manager. (Ord. #208, Sept. 2002, modified)

1-202. Duties of the city recorder--generally. (1) The city recorder's duties are those specified in part 4 of chapter 21 of the city's charter.

(2) Exercise a general supervision over the fiscal affairs of the city, and general accounting supervision over all of the city's property, assets and claims, and the disposition of such property, assets and claims;

(3) Require proper fiscal accounts, records, settlements and reports to be kept, made and rendered to the city manager by the several officers and departments of the city, including all deputies and employees in the city manager's office charged with the collection, or expenditure of money, and shall control and audit the same;

(4) Cause an efficient uniform system of accounting for the city to be installed and maintained;

(5) Cause forms used in connection with either the receipt or disbursement of city funds to be numbered consecutively, and shall account for all spoiled or unused forms;

(6) To maintain an inventory provided by department heads of all city's property in accord with sound accounting and property management standards;

(7) Develop and maintain a system for the issuance, recording and administration of licenses and permits;

(8) Carry out such other duties and tasks as may be required by law, ordinance or resolution;

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[1]Charter reference

For charter provisions outlining the duties and powers of the recorder, see Tennessee Code Annotated, title 6, chapter 21, part 4, and title 6, chapter 22. Where the recorder also serves as the treasurer, see Tennessee Code Annotated, title 6, chapter 22, particularly § 6-22-119.

(9) The city recorder shall perform such other duties and carry out such tasks as may be required by law, ordinance of the actions or directives of the city manager or the board of commissioners. (Ord. #208, Sept. 2002, modified)

1-203. To be bonded. Pursuant to Tennessee Code Annotated, § 6-21-104, the recorder shall, before entering upon her duties, execute a fidelity bond in an amount deemed appropriate by the commission, with a surety company authorized to do business in the State of Tennessee as surety.

The cost of this bond shall be paid by the City of Maynardville. (2001 Code, § 1-201, modified)

1-204. To charge for copies of records, etc. When the recorder provides copies of records, papers, and documents in her office she shall charge in accordance to the Office of Open Records Council (OORC) fee schedule:

(10) For accident reports $1.00

(11) For other records, papers, and documents . . . . . $ .25 per page for 1st 2 pages and $ .10 per page for all pages thereafter.

(2001 Code, § 1-202, modified)

CHAPTER 3

CITY MANAGER[1]

SECTION

1-301. Duties and powers. The city manager shall be the chief administrative officer of the city and shall exercise such authority and control over law and ordinance violations, departments, officers and employees, and city purchases and expenditures as the charter prescribes, and shall perform all other duties required of him pursuant to the charter.

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[1]Charter references
Administrative head of city: § 6-21-107.
Appointment and removal of officers and employees: §§ 6-21-102, 6-21-108, 6-21-401, 6-21-601, 6-21-701, 6-21-704 and 6-22-101.
General and specific administrative powers: § 6-21-108.
School administration: § 6-21-303.
Supervision of departments: § 6-21-303.

CHAPTER 4

CODE OF ETHICS

SECTION

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City of Maynardville ("city"). The words "city," "municipal" and "municipality" include these separate entities. (Ord. #0-2006-04, Sept. 2006)

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

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

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

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #0-2006-04, Sept. 2006)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself[1] from voting on the measure. (Ord. #0-2006-04, Sept. 2006)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #0-2006-04, Sept. 2006)

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

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #0-2006-04, Sept. 2006)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #0-2006-04, Sept. 2006)

1-407. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #0-2006-04, Sept. 2006)

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #0-2006-04, Sept. 2006)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #0-2006-04, Sept. 2006)

1-410. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee 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 any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #0-2006-04, Sept. 2006)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #0-2006-04, Sept. 2006)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge. (1) Appointment. The city judge designated by the charter to handle judicial matters within the city shall be appointed by the board of commissioners and shall serve at the pleasure of the governing body. Vacancies in the office of the city judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner as prescribed for the appointment of the city judge.

(2) Qualifications. The city judge shall be a minimum of twenty-one (21) years of age, preferably be licensed by the State of Tennessee to practice law, and preferably be a resident of Union County.

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[1]Charter references
City judge:
Appointment and term: § 6-21-501.
Jurisdiction: § 6-21-501.
Qualifications: § 6-21-501.
City court operations:
Appeals from judgment: § 6-21-508.
Appearance bonds: § 6-21-505.
Arrest warrants: § 6-21-504.
Docket maintenance: § 6-21-503.
Fines and costs:
Amounts: §§ 6-21-502, 6-21-507.
Collection: § 6-21-507.
Disposition: § 6-21-506.

(3) Judge pro tem. During the absence of the city judge from his duties for any reason or at any time the office of the city judge is vacant, the board of commissioners may appoint a city judge pro tem to serve until the city judge returns to his duties or the office of city judge is no longer vacant. The city judge pro tem shall have all the qualifications required, and powers, of the city judge.

3-102. Jurisdiction. The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code.

CHAPTER 2

COURT ADMINISTRATION

SECTION

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; penalties and costs imposed and whether collected; and all other information which may be relevant.

3-202. City court clerk. In accordance with the city charter, the city manager appoints and supervises the city court clerk.

3-203. Imposition of penalties and costs. All 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 by him, the city judge shall impose court costs in the amount of one hundred twenty-five dollars ($125.00) which includes a thirteen dollar and seventy-five cents ($13.75) local litigation tax. One dollar ($1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

3-204. Disposition and report of penalties and costs. All funds coming into the hands of the city judge in the form of penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of commissioners a report accounting for the collection or noncollection of all penalties and costs imposed by his court during the current month and to date for the current fiscal year.

3-205. Contempt of court. Contempt of court is punishable by a fine of fifty dollars ($50.00), or such lesser amount as may be imposed in the judge's discretion.

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.[1] The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances.

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 personally to 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 municipal code or 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.

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.

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[1]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. (1) Deposit allowed. Whenever any person lawfully possessing 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 the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a 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 the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the city court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated § 55-50-801, et seq.

3-402. Appeals. Any person dissatisfied with any judgment of the city court against him may, within ten (10) days[1] thereafter, Sundays exclusive, appeal to the circuit court of the county upon giving bond.

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[1]State law reference
Tennessee Code Annotated § 16-18-307.

"Person" as used in this section includes, but is not limited to, a natural person, corporation, business entity or the municipality.

3-403. Bond amounts, conditions, and forms. (1) Appearance bond. 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.

(2) Appeal bond. An appeal bond in any case shall be two hundred and fifty dollars ($250.00) for such person's appearance and the faithful prosecution of the appeal.

(3) Form of bond. 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 within the county.

(4) Pauper's oath. A bond is not required provided the defendant/appellant

(a) Files the following oath of poverty:

I, _____, do solemnly swear under penalties of perjury, that owing to my poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief;

(b) Files an accompanying affidavit of indigency.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER
1. PERSONNEL POLICIES.

CHAPTER 1

PERSONNEL POLICIES

SECTION
4-101. Personnel policy.
4-102. Employees.
4-103. Hiring procedures.
4-104. Benefits and leave policies.
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4-101. Personnel policy. (1) Purpose. The primary purpose of these policies is to establish an understanding, cooperation and efficiency in city operations by establishing a system of human resources administration which provides consistent, impartial and effective policies and procedures for the employees of the City of Maynardville, Tennessee without regard to race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law.

The manual is not a part of a contract, and no employee has any contractual or property rights to the matters set forth herein other than what is specified in the charter.

These personnel regulations shall be made available to all employees. Employees will receive a copy of the regulations upon employment. Any employee who desires to review the departmental copy or request an electronic copy may contact the city manager or the city recorder.

(a) Title VI Non-Discrimination. The city complies with Title VI of the Civil Rights Act of 1964. Title VI requires that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

(b) Title VII Non-Discrimination. It is the city's policy not to discriminate against any employee or applicant for employment or during the course of employment due to race, color, religion or creed, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law. If an employee believes that he or she has been involved in any incident that was discriminatory, he or she should report the incident immediately to management. The city further complies with all federal and state laws protecting employees from discrimination and/or retaliation.

(c) Retaliation. It is unlawful to fire, demote, harass, or otherwise "retaliate" against any individual because they file a charge of discrimination, or because they participated in an investigation related to a complaint. The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

(d) Whistleblower's law. Under the Tennessee Whistleblower's Law, the city will not take any reprisal against an employee who advises the employer that the business is in violation of a law and the employee either discloses, threatens to disclose, or testifies about the violation of the law, or the employee objects to, or refuses to participate in an employment act in violation of the law. (Tennessee Code Annotated, § 50-1-304)

(2) At-will employer. The City of Maynardville, Tennessee is an at-will employer. Nothing in this document may be construed as creating a property right or contractual right to any job for any employee.

(3) Coverage. The following personnel are not covered by all sections of this policy, unless otherwise provided:

(a) All elected officials.

(b) Members of appointed boards and commissions.

(c) Consultants, advisers, and legal counsel rendering temporary professional service.

(d) The city attorney.

(e) Independent contractors and/or contract employees.

(f) Volunteer personnel.

(g) The city judge.

All other employees of the municipal government are covered by this personnel policy.

(4) Disclaimer. The City of Maynardville complies with local, state, and federal laws. In the event that there is a conflict between the contents of this manual and a local, state or federal statute, the statute shall control. (as replaced by Ord. #O-2021-01, Feb. 2021 ***Ch1_01-10-23***)

4-102. Employees. (1) Full-time. Full-time employees are individuals employed by the municipal government who work forty (40) hours per week.

(2) Part-time. Part-time employees are individuals employed by municipal government who work less than forty (40) hours per week on a regular basis. Temporary or seasonal employees are employees who work either full- or part-time, typically not to exceed nine (9) months of employment per twelve (12) month period and who are paid on a per day or per hour basis. A temporary or seasonal employee may not be subject to all conditions of employment but shall be fully capable of performing the assigned duties and will receive no benefits except those required by law. (as replaced by Ord. #O-2021-01, Feb. 2021 ***Ch1_01-10-23***)

4-103. Hiring procedures. (1) Policy statement. The primary objective of this hiring policy is to ensure compliance with the law and to obtain qualified personnel to serve the citizens of the municipality. The municipality shall make reasonable accommodations in all hiring procedures for all persons with disabilities. If an accommodation is needed, please contact the city recorder's office at 865.992.3821.

(2) Eligibility. Individuals shall be recruited from a geographic area as wide as necessary to assure that well qualified applicants for the various types of employment positions have been solicited.

(3) Job announcements. The city manager shall prepare and publicize recruiting notices in order to bring notice of vacancies to as many qualified persons as possible. Multiple media forms may be used.

(4) Application. All persons seeking appointment or employment with the municipality must complete a standard application form provided by the municipal government or submit a resume. Applications for employment are only accepted when vacancies exist and will only be considered for the specific position applied. Applications shall be accepted in the city recorder's office during regular office hours only. They will remain on active status for six (6) months from the date of original submission, and only for the specific position applied.

The city complies with the Americans with Disabilities Act. Applicants requesting reasonable accommodations at any point in the employment process should contact the city recorder at 865.992.3821.

(5) Interviews. All appointments will be preceded by an interview with the hiring authority. This may include the supervisor, department head and the city manager or a team appointed by the city manager.

(6) Pre-appointment exams. For certain positions, the employee may be required to undergo a validated physical agility examination related to the essential functions of the job, validated written and/or oral tests related to the essential functions of the job, drug testing, and, upon a conditional offer of employment, a medical examination to determine the employee's ability to perform the essential functions of the job. Reasonable accommodations shall be

made in the physical agility exam for applicants with disabilities making a request for accommodations.

(7) Appointments. All appointments shall be made in accordance with lawful provisions of the municipal charter if there are applicable provisions in the charter.

Selection and appointment of personnel are to be made by the city manager.

(a) Procedure. (i) Whenever a vacancy exists, the city manager shall initiate measures to fill the vacancy.

(ii) If the vacancy is allocated in the budget, the city manager or designee shall determine qualified applicants.

(iii) After the interviews, the city manager shall make the appointment.

(b) Emergency appointments. In an emergency, the city manager may authorize the appointment of any qualified person in a position to prevent the stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed thirty (30) days in any twelve (12) month period.

(c) Student appointments. The city manager may appoint students majoring in fields of value to the city, from qualified cooperating educational institutions, on an internship basis for a specified period of time, not to exceed twelve (12) months. Students working under cooperative programs (co-ops) may continue to be employed under a cooperative agreement for a period longer than twelve (12) months with the approval of the city manager.

(d) Promotions. Vacancies in positions above the lowest rank in any category in the service may be filled as far as practical by the promotion of employees in the city's service. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

The city manager may require that each eligible person who wishes to compete for promotion must fill out application forms or submit a resume as prescribed and present this application at the appropriate office on or before a specified date for a posted position.

(e) Transfers. Any employee desiring to be transferred to a posted position should make the request known in a letter to the city manager and hiring authority and would follow the same application process as an external candidate.

However, as vacancies occur in other departments to which the employee would be eligible for transfer, the city manager may authorize the internal transfer.

The transfer of an employee from one (1) position to another without significant change in skill levels may be effected:

(i) When the employee meets the qualification requirements for the new position;

(ii) If it is in the best interest of the city;

(iii) If further training and development of an employee in another position would be beneficial to the future staffing potential of the city; and

(iv) If it meets the personal needs of the employee consistent with the requirement of this rule.

The City of Maynardville is an at-will employer. The city reserves the right to terminate an employee's employment at any time with or without cause.

(f) Demotions. Employees may be demoted to a position of lower grade for which they are qualified for any of the following reasons:

(i) The employee's position is being abolished and they would otherwise be laid off;

(ii) The employee's position is being reclassified to a higher grade;

(iii) There is a lack of work;

(iv) There is a lack of funds;

(v) Another employee, returning from authorized leave granted in accordance with rules on leave, will occupy the position to which the employee is currently assigned; and

(vi) The employee voluntarily requests a demotion, if a position is available.

(8) Recruitments by exam. All appointments shall be made according to merit and fitness and may be subject to competitive oral or written examinations, including promotional examinations.

(a) Types of examinations. The fitness tests held to establish a list of eligibles for any class shall consist of one (1) or more of the following parts as determined by the city manager.

(i) Written test. This part, when required, shall include a written demonstration designed to show the familiarity of competitors with the knowledge involved in the type of position to which they seek appointment, the range of their general information, or their general educational attainments, and other job-related written testing requirements.

(ii) Oral interview. This part, when required, shall include a personal one-on-one interview for classes of positions where the ability to deal with others, to meet the public or other personal qualifications are to be evaluated. An oral interview may also be used in situations where a written test is unnecessary or impractical.

(iii) Performance tests. This part, when required, shall include tests of performance that determine the ability of

competitors to physically perform the essential functions of the work involved.

(iv) Psychological tests. When required, the psychological tests shall include any tests that determine the ability of competitors to perform the essential functions of a position or to meet requirements imposed by law.

(v) Training and experience. This part, when required, shall be obtained and evaluated from statements of education and experience contained in the application form or from such supplementary data as may be required.

(b) Medical examinations. After a conditional offer of employment has been extended to an applicant and prior to beginning work in the city service, each prospective employee may be required to undergo a medical examination by the city physician to determine physical and mental fitness to perform the essential functions for the position they have been offered. The medical examination expenses will be paid by the city.

(i) Any prospective employee determined to be unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the city withdrawn only:

(A) If the employee cannot perform the essential functions due to a covered disability which cannot reasonably be accommodated.

(B) The employee poses a direct threat to themselves or others.

(C) The employee is unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

All employees of the city may, during their period of employment, be required by their department head, with approval of the city manager, to undergo periodic medical examinations to determine their physical and mental ability to perform essential functions of the position in which they are employed. Such periodic medical examinations shall be at no expense to the employee. Determination of physical or mental fitness will be by a physician or physicians designated by the city.

When an employee of the city is reported by the examining physician to be physically or mentally unfit to perform the essential functions of the position in which they are employed, the employee may, within five (5) days from the date of his or her notification of the determination by the examining physician, indicate in writing to the city manager his/her intention to submit

the question of physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, then a physician shall be mutually designated by the examining physician and the physician chosen by the employee, whose decision shall be final and binding as to the physical or mental fitness of the employee to perform the work of the position in which he/she is employed. The city shall pay its physician, the employee shall pay his/her physician, and the third physician shall be paid by the loser of the disputed opinion.

(ii) An employee determined to be physically or mentally unfit to perform the essential functions of the position in which he/she is employed may be demoted in accordance with these rules or be separated from the city service after it has been determined that:

(A) The employee cannot perform the essential functions due to a covered disability which cannot reasonably be accommodated.

(B) The employee poses a direct threat to themselves or others.

(C) The employee is unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

A drug test is not considered a medical examination and may be administered by the city any time in the pre-employment (post offer) or employment process in accordance with city policy.

(iii) The results of any medical examination performed on behalf of the city will be collected and maintained in a separate medical file and will be treated as confidential. Medical information may be disclosed only under the following circumstances:

(A) Supervisors and managers may be informed about necessary restrictions on the work or duties of the employee and any necessary accommodations;

(B) First aid and safety personnel may be informed, where appropriate, if the disability might require emergency treatment;

(C) Government officials investigating compliance with federal laws shall be provided relevant information upon proper request; and

(D) Instances in which HIPPA allows information to be disclosed for business or safety reasons. (as replaced by Ord. #O-2021-01, Feb. 2021 ***Ch1_01-10-23***)

4-104. Benefits and leave policies. (1) Holidays. All functions of the city, except emergency and necessary operations, will be closed and full-time employees excused on the following holidays:

(a) New Year's Day—January;
(b) Martin Luther King Jr. Day—January;
(c) President's Day—February;
(d) Good Friday—April;
(e) Memorial Day—May;
(f) City election days—June;
(g) Independence Day—July;
(h) Labor Day—September;
(i) Columbus Day—October;
(j) Presidential elections—November;
(k) Veteran's Day—November;
(l) Thanksgiving Day—November;
(m) Day after Thanksgiving—November;
(n) Christmas Eve—December; and
(o) Christmas Day—December.

The city will publish a list of dates associated with paid holidays once per year. The city may revise the holiday schedule at any time.

When a legal holiday falls on Saturday, offices will be closed the preceding Friday. When a holiday falls on Sunday, it shall be observed the following Monday. The City of Maynardville may change this schedule at any time with or without notice.

(2) Holiday pay. When an employee must work on the day the city observes a holiday, he/she shall receive eight (8) hours holiday pay (straight time pay) plus overtime pay (one and one half (1.5) hours) for time worked, or shall be granted eight (8) hours off on an alternate day approved by the supervisor.

Employees must be in a pay status on the workday before and on the workday after the holiday, unless otherwise excused by the supervisor, to receive compensation for the holiday.

(3) Vacation leave. Vacation leave will be granted to full-time employees and can be taken in advance of accrual up to forty (40) hours with permission from the city manager or department head. Anything over forty (40) hours must be accrued in advance. Employees who wish to take time without pay must be approved by the city manager. Vacation time is accrued the first pay period of each month; employees will accrue time on the prorated schedule below. Regular full-time employees are eligible for vacation leave benefits. Part-time employees are not eligible.

Vacation time will be calculated according to the following schedule:

Years of Service	Days Per Year	Hours Earned Per Month
0–9	10 days	6.67
10–14	15 days	10

Years of Service	Days Per Year	Hours Earned Per Month
15–19	Up to 20 days Earning 1 extra day per year of service up to 20 days/160 hours. (15 years = 16 days earned, 16 years = 17 days earned)	15 = 10.67 16 = 11.34 17 = 12.01 18 = 12.68 19 = 13.35
20+	20 days	13.35

Vacation leave shall be taken at a time approved by the employee's supervisor. Up to one (1) week of vacation time can be carried over into the next calendar year or paid out in December of the current calendar year. For example, if an employee has forty (40) hours of vacation time remaining after the first pay period in December, that employee may choose to carry over forty (40) hours of time for the next year or be paid for the forty (40) hours in December. Employees cannot be paid for, or carry over, more than forty (40) hours.

Upon separation, employees are entitled to be reimbursed for any unused vacation leave, not to exceed the maximum accrual allowed for the years of service completed.

(4) Sick leave. Each regular full-time employee will accrue sick leave at the rate of one (1) day (eight (8) hours) per month up to seven hundred twenty (720) hours. Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains. Employees may carry sick leave hours over from year to year but accumulated sick leave hours may not be payable to the employee upon separation from employment from the city. ("Separation" to mean the following: resignation, layoff, disability, death, retirement, and dismissal.)

Upon retirement, accrued sick leave will be credited to the employees TCRS retirement account.

Generally, employees become eligible to use sick leave in the situations outlined below.

(a) Employees are incapacitated by sickness or a non-job-related injury, or they are seeking health (medical, dental, or psychological) diagnosis and treatment.

(b) Employees may jeopardize the health of others because they have been exposed to a contagious disease requiring notice from a qualified doctor.

(c) Necessary care and attendance of a member of the employee's immediate family is approved. Immediate family members under the sick policy are outlined below.

For purposes of this section immediate family may be considered as: husband, wife, father, mother, son, and daughter.

To prevent abuse of the sick leave privilege, department heads are required to satisfy themselves that the employee is genuinely ill before paying sick leave. Any absence may require a doctor's certificate, and any absence in excess of three (3) workdays may also require a doctor's certification to return to work (if, in the opinion of the immediate supervisor, such action is deemed appropriate).

Each day deducted from an employee's sick leave accumulation shall be for a regular workday and shall not include holidays and scheduled days off. Employees claiming sick leave while on annual leave must support their claim by a doctor's statement. When an employee is on "leave without pay" for fifteen (15) days during any calendar month, no sick leave accumulates. An eight (8) hour absence from work while sick will constitute a charge of one (1) day of sick leave.

Employees may not borrow against future sick leave or transfer earned sick leave to another employee. An employee, upon exhausting all earned sick leave, may use earned annual leave or take leave without pay. Only the governing body, by a majority vote in a regular meeting, may make exceptions to leave policy due to unusual and/or extenuating circumstances.

(5) Unpaid leave of absence. After employees have exhausted their accrued paid leave, leave without pay may be granted at the discretion of the city manager.

(6) Unpaid maternity/paternity leave. The City of Maynardville is firmly committed to protecting the rights of expectant mothers and complying with Title VII of the 1964 Civil Rights Act as amended by the Pregnancy Discrimination Act of 1978. The City of Maynardville's policy is to treat women affected by pregnancy, childbirth or related medical conditions in the same manner as other employees unable to work because of their physical condition in all employment aspects, including recruitment, hiring, training, promotion and benefits.

(a) Accommodations for pregnancy under ADA. A normal pregnancy is not considered a disability under the Americans with Disabilities Act (ADA). But if a woman experiences pregnancy complications that substantially limit a major life activity, she may be considered disabled under the ADA and, therefore, entitled to reasonable accommodation to perform her job. The City of Maynardville will make every reasonable attempt to accommodate an employee who experiences pregnancy complications under ADA.

(b) Maternity leave for birth of child. Pregnant employees may continue to work until they are certified as unable to work by their physician. At that point, pregnant employees are entitled to a maximum of six (6) weeks of unpaid leave for a regular delivery, and a maximum of eight (8) weeks of leave for a cesarean section or medically complicated

birth. If the employee has annual, sick, or compensatory time accrued the city does require paid leave to run concurrent with the leave. Once paid leave is exhausted, the employee will remain on unpaid leave until the expiration of the approved leave period.

(c) Paternity leave for birth of child. Fathers are also eligible for unpaid paternity leave under this provision up to a maximum of six (6) weeks. If the employee has annual, sick, or compensatory time accrued the city does require paid leave to run concurrent with the leave period. Fathers are required to use compensatory time, followed by annual leave and sick leave before reverting to unpaid leave status. Once paid leave is exhausted, the employee will remain on unpaid leave until the expiration of the approved leave period.

(d) Care of well newborn child born/bonding with newborn. A male employee must utilize accrued vacation leave. Accrued sick leave cannot be applied. When available paid absences are exhausted, then the balance of leave will be taken as unpaid.

(e) Care of the spouse during or after childbirth. A husband may use up to five (5) sick days to care for his spouse during or after childbirth. Extended use of sick days would require physician's certification of the spouse's "incapacitating" medical condition. When available paid absences are exhausted, then the balance of leave will be taken as unpaid.

(f) Maternity/paternity leave for adoption of child. Employees are eligible for maternity/paternity leave for the legal adoption of a child for up to a maximum of six (6) weeks.

In the event that husband and wife both work for the city and qualify for maternity/paternity leave, the city may require the total eligible leave period to be combined.

(7) Funeral/bereavement leave. Full-time employees shall be allowed three (3) days of leave with pay for a death in an employee's immediate family. In addition, employees can take two (2) sick days. After these five (5) days are exhausted an employee must take annual leave for additional time off. Immediate family shall include members as defined below. Employee's wishing to attend services of non-relatives must use annual leave for this purpose. Regular part-time employees shall receive funeral/bereavement leave on a prorated basis, based on percentage of hours worked as compared to a forty (40) hour work week.

For the purpose of the bereavement policy, immediate family members are as follows: legal spouse, parent, grandparent, child, grandchild, brother, sister, parents-in-law, brother- or sister-in-law. "Immediate family members" are defined as an employee's spouse, domestic partner, parents, stepparents, siblings, children, stepchildren, grandparents, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, children-in-law, foster parents, legal guardian or grandchild.

Full-time employees shall be allowed one (1) day of leave with pay for a death in an employee's extended family. In addition, employees can take two (2) sick days.

Approved bereavement leave will not be deducted from an employee's sick or annual leave balance. Sick days or annual days taken will be deducted from the employee's balance.

Extended family members are as follows: cousin, niece, nephew, aunt, uncle.

(8) Jury leave/civil leave. Civil leave with pay shall be granted to employees for the following reasons:

(a) Jury duty (Tennessee Code Annotated, § 22-4-108).

(b) To answer a subpoena to testify for the municipality.

Employees selected for civil service shall be excused for the actual duration of the civil service. Upon release from civil duty during the employee's normal working hours, he/she is expected to return to duty. Employees will receive full pay during such service. Any monies received from jury duty may be kept by the employee.

(9) Voting leave. When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with Tennessee Code Annotated, § 2-1-106.

(10) Health benefits. The City of Maynardville provides group health coverage to eligible employees. The city will determine the employee and employer contribution amount. Full-time employees are eligible for benefits. Seasonal, part-time, and volunteer workers are not eligible for benefits.

(11) Retirement. The City of Maynardville participates in the "Tennessee Consolidated Retirement System." All present employees are under said Tennessee Consolidated Retirement System, and new full-time employees are eligible to participate in said Tennessee Consolidated Retirement System Plan.

(12) Longevity pay. The city has a longevity pay plan that provides annual payment to regular full-time and regular part-time employees as a reward for their service to the city. Longevity pay is calculated at the rate of fifty dollars ($50.00) for each year of eligible service up to a maximum of ten (10) years. Longevity payments are made by a separate payroll check and are distributed with the first payroll in the month of December each calendar year. The dollar value of longevity pay is considered as covered salary for calculating retirement.

(13) Other benefits. Other benefits may be provided. Please refer to the City of Maynardville for more information on benefits not itemized in this document. The City of Maynardville may change benefit offerings at any time with or without notice. (as replaced by Ord. #O-2021-01, Feb. 2021 ***Ch1_01-10-23***)

4-105. Compensation. (1) Hourly rates/part-time employees. Employees paid on an hourly rate basis are paid for all time actually worked.

(2) Minimum wages. In accordance with the FLSA, no employee, whether full-time, part-time, or probationary, shall be paid less than the federal

minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations.

(3) Overtime/compensatory time. The City of Maynardville does not issue compensatory time.

The Fair Labor Standards Act (FLSA) requires all employers to compensate their FLSA non-exempt employees with time and a half for all hours worked over forty (40) in the workweek. FLSA guidelines differ for public safety officers. Compensable time includes all time in which the employee is required to work for the local government. Generally, uninterrupted lunch periods, annual and/or sick leave, compensatory time and any time in which the employee is not working will not be considered working time and will not be counted toward overtime. Special overtime provisions apply to public safety officers. The local government will compensate public safety officers based on the provisions of the FLSA special exemption (if applicable).

When it becomes necessary for an employee to work overtime hours or return to duty from off-duty hours due to an emergency, regular employees, part-time employees, and temporary employees shall be paid according to the prevailing salary schedule. Overtime work will be compensated according to the FLSA provisions at a rate of one and one-half (1 1/2) times the employee's regular rate.

Overtime will not be authorized except by prior approval of the city manager. For overtime purposes, all positions within the city shall be classified as either exempt or nonexempt positions in accord with the Fair Labor Standards Act. Non-exempt employees required to work overtime shall be paid for such overtime (if eligible) on the basis of one and one-half (1 1/2) times the overtime hours worked provided that the employee has worked eight (8) hours during that day.

All work outside of a non-exempt employee's regular work schedule will be considered overtime and is compensable at one and one-half (1 1/2) times the employee's regular rate.

(4) Call back time. When it becomes necessary for an employee to work overtime hours or return to duty from off-duty hours due to an emergency, regular employees, part-time employees, and temporary employees will be paid according to the prevailing salary schedule. Overtime work will be compensated according to the FLSA provisions at a rate of one and one-half (1 1/2) times the employee's regular rate. Generally, overtime work must be authorized by the city manager.

(5) On-call time. On-call service is necessary for the proper maintenance and functioning of local government services. It is the duty and responsibility of each on-call employee to be available by electronic communication at all times. Employees must be able to respond to an emergency call within thirty (30) minutes after receiving notice. The department head or lead person will be responsible for determining which employees are designated for on-call.

When an on-call employee is called out, he/she will receive two (2) hours minimum pay for the first call-out each day. Subsequent call-outs will be paid for actual time worked (overtime pay will be awarded according to FLSA provisions).

An employee on-call who fails to respond to an emergency call within thirty (30) minutes will be subject to disciplinary action up to and including discharge. An employee called in by the on-call person who fails to respond may be subject to disciplinary action. (as replaced by Ord. #O-2021-01, Feb. 2021 ***Ch1_01-10-23***)

4-106. State and federal personnel mandates. (1) Discrimination prohibited. The city is an equal opportunity employer. Except as otherwise permitted by law, the city will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, veteran status, pregnancy status, genetic information, or age. The city shall 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. This includes the right of applicants/employees to communicate with elected officials, free speech, refuse to participate in or remain silent about illegal activities, and exercise a statutory constitutional right or any right under clear public policy, or any other basis protected by law. The City of Maynardville may provide reasonable accommodation to individuals unless the accommodation would pose an undue hardship on the city or present or cause an unsafe work environment for the applicant/employee, or others.

(2) General harassment policy. The City of Maynardville strictly prohibits harassment on the basis of race, color, religion, gender, national origin, age, or disability as such actions constitute discrimination. No city employee shall engage in harassment of any form. Harassment is defined as unwelcome or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by the Americans with Disabilities Act that creates a hostile work environment or circumstances involving quid pro quo. Sexual harassment as defined by the Equal Employment Opportunity Commission is unwelcome sexual advances, and requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. Any city employee who believes he or she may have a complaint of harassment should report the complaint to the city immediately. The employee may also follow notification procedures listed in this personnel policy and file the complaint within thirty (30) days of the occurrence directly

with the city recorder or city manager; the city will conduct an investigation into any allegation of harassment. An administrative official of the city will advise the employee of the outcome of the investigation. The city manager will take any action he/she deems necessary to preserve the integrity of the organization and to ensure the efficiency and effectiveness of the city's operations. Employees witnessing harassment shall also report such conduct to the appropriate city official. Retaliation toward any employee exercising his or her right and duty to address perceived harassment will not be tolerated.

The city complies with all local, state, and federal guidelines concerning harassment and discrimination.

(3) Workplace violence. It is the policy of the City of Maynardville to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the local government's activities. The City of Maynardville will not tolerate any type of activity or behavior that involves a threat to the city, a member of the public, or another employee.

(a) Employees not engaged in the performance of their duties who are legal handgun carry permit holders are allowed to possess or carry a handgun in public parks and other similar public areas owned or operated by the City of Maynardville except when in the immediate vicinity of a school related activity on an athletic field.

Handgun carry permit holders are allowed to transport and store firearms and firearms ammunition in their vehicles pursuant to the parameters in Tennessee Code Annotated, § 39-17-1313(a), as long as the firearm(s) or ammunition is kept from ordinary observation and locked within the trunk, glove box, or interior of the person's motor vehicle or a container securely affixed to such motor vehicle if the permit holder is not in the motor vehicle.

Under no circumstances are the following items permitted on local government property, including local government-owned parking areas, except when issued or sanctioned by the local government for use in the performance of the employee's job:

(i) Dangerous chemicals;

(ii) Explosives or blasting caps;

(iii) Knuckles; or

(iv) Other objects carried for the purposes of injury or intimidation.

(b) Charges of violence may be reported to any supervisory employee of the local government, including the city recorder or city manager. They are charged with investigating all cases of workplace violence and harassment. Depending on the severity of the charges or whether a crime is committed, the city manager may request that the police chief provide assistance to the city recorder or assume

responsibility for the investigation. All employees are required to assist in the course of the investigation by providing testimony, statements and evidence, as required. Failure to cooperate may result in disciplinary action.

(c) Copies of the investigative report with recommendations for appropriate action will be turned over to the city manager as appropriate for further action. Disciplinary action may be taken against any employee who commits acts of workplace violence and harassment.

(4) Sexual harassment. (a) Purpose. The City of Maynardville may be held liable for the actions of all employees with regard to sexual harassment and will not tolerate sexual harassment of its employees. The local government will take immediate, positive steps to stop such harassment when it occurs. The local government is responsible for acts of sexual harassment in the workplace when the local government (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the local government took immediate and appropriate corrective action. The local government may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the local government (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

This policy applies to all officers and employees of the City of Maynardville, including, but not limited to, full- and part-time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the personnel rules or regulations of the local government, and employees working under contract for the local government. The following rules shall be strictly enforced.

(b) Definitions. The following actions constitute an unlawful employment practice and are absolutely prohibited by the local government when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

(i) Sexual harassment or unwelcome sexual advances;

(ii) Requests for sexual favors;

(iii) Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;

(iv) Explicit or implied job threats or promises in return for submission to sexual favors;

(v) Sex-oriented comments on appearance;

(vi) Sex-oriented stories;

(vii) Displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or

(viii) Sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees.

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conducted directed by women toward men, and conduct directed by women toward women.

(c) Making sexual harassment complaints. (i) An employee who feels he/she is subjected to sexual harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

(A) The employee's immediate supervisor;

(B) The employee's department head;

(C) The city manager; or

(D) Human resources administrator.

(ii) Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about sexual harassment. The employee should be prepared to provide the following information:

(A) His/her name, department, and position title;

(B) The name of the person or people committing the sexual harassment, including their title(s), if known;

(C) The specific nature of the sexual harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;

(D) Witnesses to the harassment; and

(E) Whether the employee has previously reported the harassment and, if so, when and to whom.

(d) Reporting and investigating sexual harassment complaints. The city manager is the person the local government designates as the investigator of sexual harassment complaints against employees. In the event the sexual harassment complaint is against the city manager, the investigator may be the city attorney.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall:

(i) Immediately prepare a report of the complaint according to the preceding section and submit it to the city manager;

(ii) Make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:

(A) Verbal responses made to the investigator by the person complaining of sexual harassment;

(B) Witnesses interviewed during the investigation;

(C) The person against whom the complaint of sexual harassment was made; and

(D) Any other person contacted by the investigator in connection with the investigation.

(iii) Within twenty (20) working days of receiving the complaint, the city manager prepares and presents the findings to the city council in a report, which will include:

(A) The written statement of the person complaining of sexual harassment;

(B) The written statements of witnesses;

(C) The written statement of the person against whom the complaint of sexual harassment was made; and

(D) All the investigator's notes connected to the investigation.

(e) Action on complaints of sexual harassment. Upon receiving an investigation report of a sexual harassment complaint, the city manager will immediately review the report. If the city manager determines that the report is not complete in some respect, he/she may question the person complaining of sexual harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person who may have knowledge about the harassment.

Based upon the report and his/her own investigation (where a separate investigation is made), the city manager will, within a reasonable time, determine whether the conduct in question constitutes sexual harassment. In making that determination, the city manager will look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. The decision of whether sexual harassment actually took place will be determined on a case-by-case basis.

If the city manager determines that the harassment complaint is founded, he/she shall take immediate and appropriate disciplinary action against the guilty employee, consistent with his/her authority under the local government charter, ordinances, resolutions, or rules governing his/her authority to discipline employees. If the city manager feels that the harassment warrants disciplinary action stronger than he/she is authorized to impose by the charter, ordinances, resolutions, or rules governing employee discipline, he/she shall make that determination known, along with the report of the investigation, to the governing body of the local government. If the governing body determines that the sexual harassment complaint is founded, it may discipline the employee

consistent with its authority under the local government charter, ordinances, resolutions, or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the employee's rank, and any other factors the governing body believes relate to fair and efficient administration of the local government. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the local government. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. Determining the level of disciplinary action shall also be made on a case-by-case basis. A written record shall be kept of imposed disciplinary actions, including verbal reprimands.

In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation.

In cases where sexual harassment is committed by a non-employee against a local government employee in the workplace, the city manager shall take whatever lawful action is necessary against the non-employee to bring the sexual harassment to an immediate end.

(f) Obligation of employees. Employees are not only encouraged to report instances of sexual harassment; they are obligated to report them. Employees are also obligated to cooperate in every harassment investigation. The obligation includes, but is not necessarily limited to, coming forward with evidence (both favorable and unfavorable) about a person accused of such conduct, fully and truthfully making written reports, or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may be taken against employees who fail to report instances of sexual harassment, fail or refuse to cooperate in the sexual harassment investigation or file a complaint of sexual harassment in bad faith.

(5) Occupational safety and health. The municipality shall provide job safety and health protection and training for all employees in accordance with the Occupation Safety and Health Administration (OSHA) Legislation (29 U.S.C. §§ 656, et seq.) and the Tennessee OSHA Law (Tennessee Code Annotated, §§ 50-3-101, et seq.).

(6) Military leave/veterans' re-employment. All employees who are members of or who may become members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and must be given leave with pay not exceeding twenty (20) working days in any one (1) calendar year (Tennessee Code Annotated,

§ 8-3109). Also, any employee of the municipality who leaves his/her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the same or comparable position in accordance with Veteran's Re-employment Rights (38 U.S.C. § 202-2016) and the Tennessee Military Leave Act (Tennessee Code Annotated, §§ 8-33-101, et seq.).

(7) Commercial driver's license. All employees that drive:

(a) A vehicle with a gross weight of more than twenty-six thousand (26,000) pounds;

(b) A trailer with a gross weight of more than ten thousand (10,000) pounds;

(c) A vehicle designed to transport more than fifteen (15) passengers, including the driver; and

(d) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee Commercial Driver's License in accordance with Tennessee Code Annotated, §§ 55-50-101, et seq.

Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

(8) Employee drug testing. All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, title V) and the Natural Gas Pipeline Safety Act (49 CFR part 199). Other employees may be subject to drug testing in accordance with the drug testing policy of the municipality.

(9) Employee right to contact elected officials. No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be reprimanded for making untrue allegations concerning any job-related matter (Tennessee Code Annotated, §§ 8-50-601 to 8-50-604).

(10) Political activity. Employees have the same rights as other citizens to be a candidate for state or local political office and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities.

Employees are not allowed to serve on the municipal governing body in the city where they are employed. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election (Tennessee Code Annotated, § 7-51-1501).

(11) Travel policy. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy. The City of Maynardville follows the state guidelines on travel.

No trips that involve reimbursement and/or municipal government expense shall be undertaken without prior approval of the city manager. Mileage will be reimbursed at an amount per mile approved by our governing body and in line with what the State of Tennessee allows and per diem will be

paid for food. For details regarding travel, obtain a copy of the municipal government's travel policy from the recorder.

(12) Non-smoker protection act. The city complies with the Non-Smoker Protection Act of 2007, which prohibits smoking in all public places such as buildings, equipment, and city owned vehicles. All employees who operate city owned vehicles are prohibited from smoking in the vehicle or piece of equipment. This includes other occupants that may be being transported in the vehicles. (as replaced by Ord. #O-2021-01, Feb. 2021 ***Ch1_01-10-23***)

4-107. Miscellaneous policies. Please note some of the policies in this section may be outlined in more detail in the city's ethics policy. Please refer to the city's ethics policies for more information.

(1) Accepting of gratuities. No employee shall accept any money, other considerations, or favors from anyone other than the municipality for performing an act that he/she would be required or expected to perform in the regular course of his/her duties. No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to the municipality's business.

(2) Business interest. No department head or supervisor may have any financial interest in the profits of any contract, service, or other work performed by the city. No department head or supervisor may personally profit directly or indirectly from any contract, purchase, sale, or service between the city and any person or company.

No city employee may enter into a contract with the city or perform any work or function under any contract with the city if he/she has a direct or indirect financial interest in the contract, unless: the contract is awarded through a process that complies with the city's purchasing.

(3) Use of city vehicles and equipment. All city vehicles and equipment are for official use only. No other person other than a city employee may operate a city vehicle or piece of machinery. Drivers and/or operators must have a valid Tennessee driver's license and be approved by the department head or city manager.

Please refer to the city's vehicle use policy, which is on file with the city recorder.

(4) Driving records. Any employee who is required as an employment condition to possess and maintain a valid Tennessee driver's or commercial driver's license must immediately, before reporting for duty the next workday, inform his/her supervisor should his/her license become denied, expired, restricted, suspended, or revoked any time during employment with the city. Periodic review of employees' driving records will be conducted by the city manager/designee to assure adherence to this policy.

(5) Misuse of city property. Misuse of city property violates the values of integrity, respect, and continuous improvement of the city. Misuse of property

may include, but is not limited to, misusing or taking broad property or the property of others without permission, or misusing or misappropriating funds, misuse of copyrighted material, vandalism, embezzlement, using city resources/positions, or business cards/identification/security badges, for unauthorized business or personal reasons or personal gain.

(6) Computer use and email monitoring policy. It is every employee's duty to use the city's computer resources and communication devices responsibly, professionally, ethically, and lawfully. These policies are not intended to, and do not grant users any contractual rights. The term "computer resources" refers to the city's computers, electronic equipment, and its entire computer network.

The city has the right, but not the duty, to monitor any and all aspects of the computer resources, including monitoring sites visited by employees on the internet, monitoring chat groups and news groups, reviewing material downloaded or uploaded by users to the internet, and reviewing email sent and received by others.

All employee correspondence in the form of electronic mail may be considered a public record and may be subject to public inspection under the Tennessee Public Records Law.

(7) Use of municipal time, vehicles, facilities, etc. No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other person, group, or organization other than the municipality. Decisions to permit use by charitable, civic or other organizations will be made exclusively by the governing body or their designee.

(8) Dress code. Personal appearance and manner of dress are important parts of your job responsibilities. Employees are expected to dress and groom in a manner which is appropriate for the type of work performed. Since all employees deal with co-workers and the public on a daily basis, acceptable personal hygiene is essential. Employees should ensure their personal hygiene will not be offensive to others around them. This includes, but is not limited to, oral hygiene and body odor. Specific dress codes vary based on the position held and whether the job requires the use of a uniform. An employee who does not meet the standards of this policy will be required to take corrective actions, which may include leaving the premises to correct the issue and return to work. Any work time missed because of failure to comply with this policy will not be compensated, and repeated violations of this policy may be cause for disciplinary action.

(a) Uniforms. In departments where uniforms are provided, all employees are expected to wear the uniform according to departmental policy. All uniforms are expected to be kept neat and in good repair. There will be an allowance allotted for those employees required to wear uniforms.

(i) Employees may wear conservative, "stud" type earrings that do not interfere with the proper performance of duty

or pose a safety hazard. No other visible piercings are to be permitted.

(ii) Some departments (when jewelry is worn) may require watches, necklaces and rings that break away to avoid safety issues and injury.

(iii) Employees should appear professional and conservative in personal grooming and makeup.

(iv) Tattoos shall not be obscene, and in keeping with a professional image.

(v) Additional departmental policies may also apply.

(b) Non-uniformed personnel. Employees who do not regularly meet the public should follow basic requirements of safety and comfort but should still be as neat and businesslike as working conditions permit.

(i) Clothing should be worn and fit in such a manner that it does not expose the abdomen, chest or buttocks areas.

(ii) Clothing should not be worn with a printed message or picture that is obscene or offensive.

(iii) Employees may wear earrings; no other visible piercings are to be permitted.

(iv) Tattoos shall not be obscene, and in keeping with a professional image.

(v) Employees should appear professional and conservative in personal grooming and makeup. (as replaced by Ord. #O-2021-01, Feb. 2021 ***Ch1_01-10-23***)

4-108. <u>Dismissal</u>. <u>At-will</u>. Employees may be dismissed for cause, for no cause, or for any cause as long as it does not violate federal and/or state law or the municipal charter. (as replaced by Ord. #O-2021-01, Feb. 2021 ***Ch1_01-10-23***)

4-109. <u>Personnel policy changes</u>. Nothing in this chapter may be construed as creating a property right or contact right to the job for any employee. The provisions of this personnel policy may be unilaterally changed by resolution of the governing body from time to time as the need arises. (as replaced by Ord. #O-2021-01, Feb. 2021 ***Ch1_01-10-23***)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for city funds. The City and County Bank of Union County is hereby designated as the official depository for all city funds.[2] (2001 Code, § 5-101, modified)

5-102. Fiscal year of the city. The fiscal year of the city is from the first day of July to the thirtieth day of June of the year next following.

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[1]Charter reference
Finance and taxation: title 6, chapter 22.

[2]Charter reference
Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES

SECTION

5-201. When due and payable.[1] Taxes levied by the city against real and personal property shall become due and payable annually on the first day of November of the year for which levied.

5-202. When delinquent--penalty and interest.[2] All real property taxes shall become delinquent on and after the first day of December next after they become due and payable, and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the charter.[3]

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[1]Charter references

Tennessee Code Annotated § 6-22-110 sets the due date of November 1 of the year for which the taxes are assessed, but Tennessee Code Annotated, § 6-22-113 provides that a different tax due date may be set by ordinance (by unanimous vote of the board of commissioners.)

[2]Charter references

Tennessee Code Annotated § 6-22-112 sets the tax delinquency of December 1 of the year for which the taxes are assessed, but Tennessee Code Annotated § 6-22-113 provides that a different delinquent date may be set by ordinance (by unanimous vote of the board of commissioners).

[3]Charter reference

Tennessee Code Annotated § 6-22-114 directs the finance director to turn over the collection of delinquent property taxes to the county trustee.

State law reference

A municipality has the option of collecting delinquent property taxes any one of three ways:

(1) Under the provisions of its charter for the collection of delinquent property taxes.
(2) Under Tennessee Code Annotated §§ 6-55-201--6-55-206.
(3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.[1] (2001 Code, § 5-201)

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[1]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 4

PURCHASING

SECTION

5-401. Purchasing limits. In accordance with Tennessee Code Annotated, § 6-19-104, the purchase of all materials, supplies, equipment and services purchased under the authority of this chapter shall, unless otherwise provided by law, be purchased in accordance with the following regulations:

(1) Purchase in excess of twenty-five thousand dollars ($25,000.00) (not to exceed twenty-five thousand dollars ($25,000.00)). The city manager is authorized to make the following purchases whose estimated costs do not exceed twenty-five thousand dollars ($25,000.00) without formal sealed bids and written specifications: commonly used items of material, supplies, equipment and services used in the ordinary course of maintaining and repairing the city's real or personal property; building or maintaining stocks of city material, supplies and equipment used in the ordinary course of city operations; and minor construction, repair or maintenance services. However, a record of all such purchases shall be maintained describing the material, supplies, equipment or service purchased, the person or business from whom it was purchased, the date it was purchased, the purchase cost, and any other information from which the general public can easily determine the full details of the purchase. Each purchase shall be supported by invoices and/or receipts and any other appropriate documentation signed by the person receiving payment.

(2) Purchases in excess of twenty-five thousand dollars ($25,000.00). The city manager is required to make purchases in excess of twenty-five thousand dollars ($25,000.00) based on written specifications, awarded by written contract let to the lowest responsive and responsible bidder following advertisement for, and the submission of, sealed bids, provided that the city may reject any and all bids.

(3) Exceptions to bidding requirements. The city manager is authorized to make the following purchases whose estimated cost is in excess of twenty-five thousand dollars ($25,000.00) (not to exceed twenty-five thousand dollars ($25,000.00)) without written specifications or bids:

(a) Emergency purchases of material, supplies, equipment or services. However, a report of the emergency purchase, including the nature of the emergency; the materials, supplies, equipment or services purchased; and appropriate documentation similar to that required under the first subsection above shall be filed with the commission at its next regular meeting.

(b) The purchase of unique, special, or proprietary material, supplies, equipment or services the city manager determines is in the best interest of the city to acquire. However, a report of the purchase, including a full description of the material, supplies, equipment or services purchased; the reason the same is unique, special or proprietary; the interest of the city served by the purchase; and from whom the purchase will be made shall be filed with the commission at its regular meeting prior to purchase.

(c) Purchases of equipment that by reason of training of city personnel or an inventory of replacement parts maintained by the city is compatible with existing equipment owned by the city. However, a full report of the purchase, including a full description of the equipment, an outline of the municipal training or parts inventory factors that made the purchase economically advantageous to the city, and from whom the purchase will be made shall be filed with the commission at its regular meeting prior to purchase.

(d) Purchases that can be made only from a sole source. The minimum geography for determining the "sole source" shall be the municipal limits. However, the city manager shall have the discretion to enlarge the geography of the sole source to whatever extent he determines is in the economic interest of the city. However, a full report of the purchase, including a full description of the purchase, evidence that the purchase is legitimately a sole source purchase, and from whom the purchase will be made shall be filed with the board of commissioners at its regular meeting prior to purchase.

(4) When written quotes required. At least three (3) written quotes are required whenever possible for purchases costing less than the city's competitive bid threshold of twenty-five thousand dollars ($25,000.00) but more than forty percent (40%) of such threshold. (as amended by Ord. #O-2022-9, Sept. 2022 ***Ch1_01-10-23***)

5-402. Surplus stock. All department heads shall submit to the city manager, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

1. Transfer. The city manager shall have the authority to transfer surplus stock to other departments.

2. Sale. The city manager shall recommend to the commisison to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade in the same on, new supplies.

3. Competitive bidding. Sales under this section shall be made to the highest responsible bidder. (2001 Code, § 5-316, modified)

TITLE 6

LAW ENFORCEMENT

CHAPTER

CHAPTER 1

POLICE DEPARTMENT[1]

SECTION

6-101. Police department. There is hereby established an executive department of the City of Maynardville to be known as the police department which shall be headed by the chief of police. (Ord. #198, Oct. 2001)

6-102. Appointment. The city manager shall appoint a chief of police and such police officers and other members of the police force as may be provided for by ordinance. (Ord. #198, Oct. 2001)

6-103. Chief of police--powers and duties. The chief of police, subject to the direction and control of the city manager shall:

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[1]Municipal code reference
Traffic citations, etc.: title 15, chapter 7.

(1) Administer the affairs of the department;

(2) Have general authority and control over the department staff and oversee the fulfillment of all tasks and duties assigned to the department, and prescribe rules and regulations deemed necessary or expedient for the proper operation of the department and to that end, keep informed of the latest administrative practices; and

(3) Take all personnel actions including supervision of personnel, within the department and shall supervise their performance. (Ord. #198, Oct. 2001, modified)

6-104. Qualifications of police officers. Any person employed as a full-time police officer, shall be post certified and any person employed/utilized as a part-time/temporary/reserve/auxiliary police officer shall have qualifications of post guidelines for auxiliary police. (Ord. #198, Oct. 2001. Modified)

6-105. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court.

6-106. Emergency assistance to police. In time of riot or other emergency, the mayor or city manager shall have power to summon any number of inhabitants to assist the police force. (Ord. #198, Oct. 2001)

6-107. Duties in prosecution of violations. Members of the police force, whenever necessary for the purpose of enforcing the ordinances of the city, shall procure the issuance of warrants, issue citations, serve the same, and appear in the city courts as prosecutors. (Ord. #198, Oct. 2001, modified)

6-108. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (Ord. #198, Oct. 2001)

6-109. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (Ord. #198, Oct. 2001)

6-110. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the commission shall authorize and shall carry such weapons as are authorized by the chief of police. (Ord. #198, Oct. 2001, modified)

6-111. When police officers to make arrests[1]. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer 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. (Ord. #198, Oct. 2001)

6-112. Police officers may require assistance in making arrests. It shall be unlawful for any person willfully to refuse to aid a police officer in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the police officer and is reasonably necessary. (Ord. #198, Oct. 2001)

6-113. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. When the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (Ord. #198, Oct. 2001)

6-114. 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 police officers;

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (Ord. #198, Oct. 2001)

CHAPTER 2

POLICE RESERVE

SECTION

6-201. Designation, membership and employee status. For the purpose of providing support to the full-time members of the police department, there shall be an auxiliary police force, which shall be designated as the Maynardville police reserve. The police reserve shall be composed of voluntary members who meet the requirements of city code § 6-104 or Tennessee Code Annotated, § 38-8-106 or other applicable state law. The members shall be headed by the chief of police of the city. The volunteers are not entitled or included under the general pay plan or be entitled to benefits including the retirement system of the city. (Ord. #198, Oct. 2001, modified)

6-202. Reduction or expansion of force. The board of commissioners, upon the recommendation of the chief of police, may by order diminish or expand the membership of the city police reserve as may in their judgment be required. (Ord. #198, Oct. 2001, modified)

6-203. Authority of chief of police. The chief of police shall have complete authority, control and command over the police reserve, subject to the provisions of this chapter.

The city manager, upon the recommendation of the chief of police, may appoint as members thereof any persons he may consider qualified and may reject any application for membership. He shall provide for the training of candidates for membership and for the further training of members. (Ord. #198, Oct. 2001)

6-204. Qualification of members. (1) No person shall be considered a member of the police reserve until such person has been duly appointed by the

city manager, registered on a roster kept by the chief of police, taken the oath provided for officers of the city police department, and provided the city with the bond provided for by law.

(2) Persons eligible for membership shall meet the requirements of § 6-102 of the Maynardville Municipal Code. (Ord. #198, Oct. 2001)

6-205. Termination of membership. Membership of any person in the police reserve may be terminated. Any member may resign from the police reserve at any time, but it shall be his duty to notify the chief of police of his resignation. (Ord. #198, Oct. 2001)

6-206. Summary dismissal of members. In addition to the penalties provided for by law, any violation of law under color of the performance of his duties as a member of the police reserve, and any breach of the rules and regulations established by the chief of police, shall subject any member to summary dismissal by the city manager. (Ord. #198, Oct. 2001, modified)

6-207. Uniform, badge and insignia. The board of commissioners shall prescribe the uniforms, badges and insignia for members of the police reserve and the manner in which the uniform, badge and insignia shall be worn. Members shall themselves furnish, at no expense to the city, uniforms and equipment. It shall be a misdemeanor, punishable as provided in the general penalty provision of the code, for anyone not a member in good standing of the force to wear or use the uniforms, badges or insignia so prescribed. (Ord. #198, Oct. 2001, modified)

6-208. Identification cards. An identification card and such other insignia or evidence of identity as the chief of police may prescribe shall be issued to each member of the police reserve, who must carry such identification at all times while on duty. The member must surrender the identification card upon the termination of his membership. (Ord. #198, Oct. 2001)

6-209. Duties. (1) The duties of the police reserve, subject at all times to the direction and supervision and control of the chief of police shall be to assist regular members of the police department in the enforcement of law and the maintenance of peace and order at such times provided for and designated by the chief of police. The chief of police shall establish rules and regulations to govern the police reserve, to fix the specific duties of its members, and to provide for the maintenance of discipline and good order.

(2) The chief of police may change such orders from time to time, provided no member shall in any manner perform any act as a member of the police reserve unless he is specifically designated for duty as such member at the time. The chief of police may prescribe other duties than those mentioned

in this section to be performed by the police reserve, not inconsistent with the provisions of this section. (Ord. #198, Oct. 2001)

6-210. Power and authority of members. (1) Authority to carry firearms. Members of the police reserve shall be authorized while on official duty as members of the reserve to carry firearms in accordance with the provisions of Tennessee Code Annotated, § 39-6-1702, and as prescribed by the rules and regulations set forth by the chief of police.

(2) Powers of arrest. Members of the police reserve, while on official duty as members thereof, shall have the same arrest powers enjoyed by regular offices of the city police department while on or off duty. (Ord. #198, Oct. 2001)

6-211. False impersonation. It shall be a misdemeanor, punishable as provide in the general penalty provision of this code, for any person to wear, carry or display a police reserve identification card or otherwise deceitfully represent himself to be a member of or connected with the police reserve, unless he is in fact a member thereof in good standing. (Ord. #198, Oct. 2001)

6-212. Job restrictions. (1) Reserve officers shall be equipped the same as full-time officers and equipment will be the same as full-time officers.

(2) All property acquired by the City of Maynardville for use of police reserve personnel shall remain property of the city and shall be returned to the city upon an individual's separation from the police reserve.

(3) All commissioned reserve officers shall satisfactorily complete forty (40) hours of in-service training annually and qualify with firearms annually.

(4) All reserve officers shall complete any additional training or testing required by the chief of police.

(5) No reserve officer shall serve in any capacity or perform any duties or operate any equipment or use any weapon for which the reserve officer has not been trained in the use thereof and has been certified in its operation or use.

(6) Reserve officers are prohibited from using Maynardville issued equipment for off-duty employment.

(7) Reserve officers shall report for duty in proper uniform and with proper equipment. (Ord. #198, Oct. 2001, modified)

CHAPTER 3

ARREST PROCEDURES

SECTION

6-301. When police officers to make arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

(1) Whenever the officer 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 probably cause to believe the person has committed it.

6-302. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other city ordinance, shall be brought before the city court. However, if the city court is not in session, the arrested person shall be allowed to post bond with the city court clerk, or, if the city court clerk is not available, to post bond with the ranking police officer on duty. If the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender.

CHAPTER 4

CITATIONS, WARRANTS AND SUMMONSES

SECTION

6-401. Citations in lieu of arrest in non-traffic cases. Pursuant to Tennessee Code Annotated § 7-63-101, et seq., the board of commissioners appoints the police the authority to issue citations in lieu of arrest. The police department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The police department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with Tennessee Code Annotated § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

6-402. Summonses in lieu of arrest. Pursuant to Tennessee Code Annotated § 7-63-201, et seq., which authorizes the board of commissioners to designate certain city enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the police department to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to

appear, the enforcement officer in whose presence the offense occurred may (1) have a summons issued by the clerk of the city court, or (2) may seek the assistance of a police officer to witness the violation. The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-301 above.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued.

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described. The corporate fire limits shall be and include all that area of the city as described in the city's zoning ordinance. (2001 Code, § 7-101, modified)

[1]Municipal code reference
Building, utility and residential codes: title 12.

CHAPTER 2

FIRE CODE[1]

SECTION

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to firefighters and emergency responders during emergency operations, the International Fire Code,[2] 2018 edition, as recommended by the International Code Council, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been filed with the town recorder and is available for public use and inspection. Said fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (as amended by Ord. #O-2022-8, Aug. 2022 ***Ch1_01-10-23***)

7-202. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal.

7-203. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline.

7-204. Variances. The chief of the fire department may recommend to the board of commissioners variances from the provisions of the fire code upon

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[1]Municipal code reference
Building, utility and residential codes: title 12.

[2]Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of commissioners.

7-205. Violations and penalty. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions.

7-206. Modifications. The following sections are hereby revised to read as follows:

- **Section D107**–Delete 30 and replace with 50.
- **Section C102**–Delete average spacing between hydrants column and replace with 1000 ft for all rows.
- **Section C102**–Delete maximum distance from any point on street or road frontage to a hydrant column and replace with 500 ft for all rows.
- **Chapter 1**, Sections 101-113–Replace all instances of Fire Code Official with designee appointed by the City Council.
- **Chapter 1**, Section 112.4–Add $100 and $500 for fine amount minimum and maximum. (as added by Ord. #O-2022-8, Aug. 2022 ***Ch1_01-10-23***)

CHAPTER 3

LIQUEFIED PETROLEUM GAS CODE

SECTION

7-301. Liquefied petroleum gas code adopted. The 2004 edition of NFPA 58, Liquefied Petroleum Gas Code and documents listed in chapter 2 thereof (the "Liquefied Petroleum Gas Code" or "LPGC"), one (1) copy of which is on file and open to inspection by the public in the office of the City Recorder of the City of Maynardville are hereby adopted and incorporated into this chapter as fully as if set out at length herein, and from the date on which the ordinance comprising this chapter shall take effect, the provisions thereof shall be in effect and shall be controlling within the limits of the City of Maynardville. The same are hereby adopted as a portion of the code of the City of Maynardville specifically title 7, Fire Protection and Fireworks, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion and for providing for issuance of permits and collection of fees. (Ord. #0-2005-01, Jan. 2005, modified)

7-302. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the petroleum gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

FIRE DEPARTMENT[1]

SECTION

7-401. Fire department established. There is hereby established a fire department to be supported and equipped from appropriations by the board of commissioners and from other contributions. All apparatus, equipment, and supplies of the fire department shall be purchased with the approval of the fire chief in accordance with municipal purchasing requirements and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the city manager and such number of subordinate officers and firemen as may be recommended by the fire chief and approved and appointed by the city manager and as shall be provided for in the annual operating budget of the city. (Ord. #226, June 2004, modified)

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[1]Charter references

For detailed charter provisions governing the operation of the fire department, see Tennessee Code Annotated, title 6, chapter 21, part 7. For specific provisions in part 7 related to the following subjects, see the sections indicated.

- Fire chief
  - Appointment: § 6-21-701.
  - Duties: § 6-21-702.
  - Emergency: § 6-21-703.
- Fire marshal: § 6-21-704
- Firemen
  - Appointment: § 6-21-701.
  - Emergency powers: § 6-21-703.

Municipal code reference

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

7-402. Appropriations. The board of commissioners shall provide for the operations of the fire department in its annual budget. Any funds raised by the fire department personnel, or by any individual or group of volunteer firemen may be accepted by the board of commissioners and may be used for purposes designated by the respective contributors. All equipment, materials, supplies, etc. purchased with contributed funds shall become the property of the city. The board of commissioners may reject any gift or contribution it deems not to be in the best interest of the city. (Ord. #226, June 2004)

7-403. Purposes and 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;

(7) To provide emergency medical care at the highest level that the equipment and training of the personnel makes practicable;

(8) To provide code enforcement and building inspections as directed by the city within adopted codes and ordinances;

(9) To serve as the emergency management agency of the city;

(10) To protect the health and safety of the citizens from the transportation, storage, or manufacture of hazardous materials to the extent possible that the level of equipment and training will allow;

(11) To work with the water department to insure that adequate water supplies for fire protection are available; and

(12) To provide public fire education materials and information to the public fire education materials and information to the citizens in order that they may protect themselves from harm. (Ord. #226, June 2004)

7-404. Organization. The chief of the fire department shall, under the direction of the city manager, set up the organization of the department, make work assignments to individuals, based on input, suggestions and recommendations from the members of the volunteer fire department, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (Ord. #226, June 2004)

7-405. Budget. The chief of the fire department shall assist in preparing the annual departmental budget to be approved by the board of commissioners, keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports to the city manager as the city manager requires. The city manager shall submit such

written reports to the board of commissioners as the board of commissioners requires. (Ord. #226, June 2004, modified)

7-406. Authority over personnel. The chief of the fire department shall recommend to the city manager suspensions or dismissals of any member of the fire department when he deems such action to be necessary for the good of the department. (Ord. #226, June 2004, modified)

7-407. Training. The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the city manager. Each volunteer firefighter and/or officer shall receive no less than forty (40) hours of in-service firefighter training annually, after an initial training period consisting of no less than sixty four (64) hours of basic firefighter training during the first ninety (90) days of his membership in the fire department. All firefighters shall be trained in accordance with the standards of the Tennessee Commission on Firefighter Standards and Education. (Ord. #226, June 2004, modified)

7-408. Fire chief designated assistant to state commissioner of commerce. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief 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. (Ord. #226, June 2004)

7-409. Fire service outside city limits. The board shall have full power and authority to authorize the use of the city's fire-fighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

(1) Tennessee Code Annotated § 58-8-101, et seq., the Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, which authorizes municipalities to respond to requests from other governmental entities affected by situations in which its resources are inadequate to handle. The act provides procedures and requirements for providing assistance. No separate mutual aid agreement is required unless assistance is provided to entities in other states, but a municipality may, by resolution, continue existing agreements or establish separate agreements to provide assistance. Assistance to entities in other states is still provided pursuant to Tennessee Code Annotated § 12-9-101, et seq. "Assistance" is defined in the act as "the provision of personnel, equipment, facilities, services, supplies, and other resources to assist in firefighting, law enforcement, the provision of public works services, the provision of emergency

medical care, the provision of civil defense services, or any other emergency assistance one governmental entity is able to provide to another in response to a request for assistance in a municipal, county, state, or federal state of emergency."

(2) Tennessee Code Annotated § 12-9-101, et seq., the Interlocal Cooperation Act, which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

(3) Tennessee Code Annotated § 6-54-601, which authorizes municipalities to:

(a) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance.

(b) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance.

(c) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

CHAPTER 5

FIREWORKS

SECTION

7-501. Purpose. The purpose of this chapter is to provide an ordinance for regulation of the manufacture, sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of Maynardville, Tennessee setting certain guidelines which shall provide for the general safety and welfare of the citizens thereof.

7-502. Definitions. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise.

(1) "Distributor" means any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a retailer, wholesaler, or any person who receives, brings, or imports any fireworks of any kind, in any manner into the City of Maynardville except to a holder of a manufacturer's, distributor's or wholesaler's permit issued by the state fire marshal.

(2) "D.O.T. class C common fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles.

(3) "Manufacturer" means any person engaged in the making, manufacture or construction of fireworks of any kind within the City of Maynardville.

(4) "Permit" means the written authority of the city manager issued under the authority of this chapter.

(5) "Person" means, any individual, firm, partnership or corporation.

(6) "Retailer" means any person engaged in the business of making retail sales of fireworks at specified times during the year as provided herein.

(7) "Sale" means an exchange of articles of fireworks for money and also includes the barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, co-partnership, or one (1) or more individuals.

(8) "Special fireworks" means all articles of fireworks that are classified is Class B explosives in the regulation of the United States Department of Transportation and includes all articles other than those classified as Class C.

7-503. Permit required. It shall be unlawful for any person to sell, offer for sale, ship or cause to be shipped into the City of Maynardville, except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler or retailer, from the state fire marshal (as required by Tennessee Code Annotated, § 68-104-101, et seq.), possession of said permits being hereby made a condition prerequisite to selling or offering for sale, shipping or causing to be shipped any fireworks into the City of Maynardville except as herein provided. Permits issued under this section are not transferable. No permit shall be issued for manufacturing of fireworks within the city as the same is prohibited.

7-504. Permit fee. The permit fee for the permit provided for in this chapter shall be one hundred dollars ($100.00) and the permit shall be valid for three hundred sixty-five (365) days. However, the board of commissioners may in its discretion waive the permit fee for any non-profit organization requesting the permit.

7-505. Privilege licenses required. The issuance of permits provided for herein shall not replace or relieve any person of state, county or municipal privilege licenses as are now or hereafter provided by law.

7-506. Permissible types of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of Maynardville, or ship into the City of Maynardville, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class 5 C common fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

7-507. Conditions for sale and use of permissible items. No permissible articles of common fireworks shall be sold, offered for sale, or possessed within the City of Maynardville, or used within the city, unless it is properly named and labeled to conform to the nomenclature of allowed fireworks and unless it is certified a "common fireworks" on all shipping cases and by imprinting on the article or retail container "D.O.T. Class C common fireworks," such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. The fire marshal of the State of Tennessee regulations relative to the possession and sale of fireworks, their storage and safety requirements, are here and now incorporated by reference herein, together with the fire code, all in full force and effect within the city.

7-508. Retail sale of permissible items--time limitations--exceptions. Permissible articles of fireworks may be sold at retail to residents of the City of Maynardville and used within the City of Maynardville from June 20th through July 5th, and December 10th through January 2nd of each year only, except that "fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five one-hundredths (25/100) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers, containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or perchlorate sales may not exceed five (5) grams of composition per item), emergency flares, matches, trick matches, and cigarette loads, the sale and use of which shall be permitted at all times.

7-509. Public displays--permits--regulation. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of Maynardville shall include display shells designed to be fired from mortars and display set pieces of fireworks classed by the regulation of the United States Department of Transportation as "Class B special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the police chief and fire chief, or their designees, and applied for and received a permit for such displays issued by the state fire marshal. Applicants for permits for such public

displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to holders of a permit for public fireworks displays shall be confined to holders of a distributors permit only.

7-510. Regulations governing storing, locating or display of fireworks. (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten feet (10') of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "fireworks--no smoking" in letters not less than four inches (4") high. No fireworks shall be sold at retail at any location where paints, oils or varnishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchaser, must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision.

(3) All firework devices sold under a duly issued permit must be located not less than fifty feet (50') from any gasoline dispensing pump.

(4) As permits are temporary for a period not to exceed three hundred sixty-five (365) days, the permit shall state any sales site must be at all times free from litter and debris, including the termination date of authorized selling periods. Violation of this provision, for which citation may issue, may give cause to refuse issuance of another permit for a period not to exceed three (3) years.

7-511. Unlawful acts in the sale, handling or private use of fireworks. (1) It is unlawful to:

(a) Offer for retail sale or to sell any fireworks to children under the age of ten (10) years or to any intoxicated or irresponsible person;

(b) Explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school or within five hundred feet (500') of where fireworks are stored, sold or offered for sale, or within five hundred feet (500') of a gasoline retailer or wholesale storage facility;

(c) Ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into at at such a motor vehicle, or at or near any person or group of people.

(2) All items of fireworks which exceed the limits of D.O.T. Class C common fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from shipment into, manufacture, possession, sale or use within the City of Maynardville for any purpose. This subsection shall not effect display fireworks authorized by this chapter.

(3) Failure to comply with the city's zoning ordinance relative to minimum front building line set back requirements set forth in said ordinance at a retail sale site.

7-512. Seizure and destruction of fireworks. (1) The Maynardville City Manager or fire chief, may seize as contraband any fireworks other than "Class C common fireworks" or "special fireworks" for public displays, which are sold, displayed, used or purchased in violation of this chapter.

(2) Before any seized fireworks may be destroyed:

(a) If the owner of such seized fireworks is known, the city manager shall give notice by registered mail or personal service to such owner, of the fire chief's intention to destroy such seized materials. Such notice shall inform the owner of the owner's right to a hearing. Upon the request of the owner, the city manager shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

(b) If the identity of the owner of any seized fireworks is not known to the city manager, the city manager shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such seizure, and of the fire chief's intention to destroy such fireworks. The notice shall be published once each week for three (3) consecutive weeks and if no person claims ownership of the fireworks within ten (10) days of the date of the last publication, the fire chief may proceed to destroy the fireworks. If the owner does claim the fireworks within the time specified, a hearing as set out in this subsection shall be held.

7-513. Violations and penalty. Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars ($50.00) or more than five hundred dollars ($500.00). In addition, the City of Maynardville may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years.

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city, except as provided by Tennessee Code Annotated, title 57. (as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-102. Consumption of alcoholic beverages on-premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the code when such sales are conducted within the corporate limits of Maynardville, Tennessee. It is the intent of the board of commissioners that Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Maynardville, Tennessee, the same as if the code sections were copied herein verbatim. (as added by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

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[1]State law reference
Tennessee Code Annotated, title 57.

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, § 301) for the City of Maynardville general fund, to be paid annually as provided in this chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Maynardville on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-104. Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Maynardville shall remit annually to the city clerk the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Maynardville, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of § 8-212 of the ordinances of the City of Maynardville, qualify to receive a beer permit from the city. (as added by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-107. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

CHAPTER 2

BEER

SECTION

8-201. Beer board established. There is hereby created a board which shall be known and designated as the beer board, referred to in this article as the "board." The board shall be composed of five (5) members and each member must and shall be appointed by the majority vote of the board of commissioners of the city. The makeup of the board can consist of any combination of members of the board of commissioners of the city and individual residents of the city, within the required number of five (5) members, provided, however, there shall be a chairman of the board and said chairman must and shall be a member of the board of commissioners of the city and said chairman shall be elected annually by the majority vote of the board. All members of the board shall be compensated in the amount of fifty dollars ($50.00) for each meeting that is actually attended by such member. (Ord. #2007-15, Aug. 2007, modified, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives an adequate notice thereof to each member. The board may adjourn a meeting

at any time to another time and place. (Ord. #2007-15, Aug. 2007, modified, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; names of the board members present and absent; names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #2009-1A, Aug. 2008, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-205. Powers and duties of the beer board.[1] The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (Ord. #2007-15, Aug. 2007, modified, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-207. Permit required for engaging in beer business.[2] 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 beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall

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[1]State law reference
Tennessee Code Annotated, § 57-5-106.

[2]State law reference
Tennessee Code Annotated, § 57-5-103.

be accompanied by a non-refundable application fee of two hundred and fifty dollars ($250.00). Said fee shall be in the approved form payable to the City of Maynardville. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (Ord. #2007-15, Aug. 2007, modified, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-208. Privilege tax.[1] There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars ($100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Maynardville, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premises and off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.[2]

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[1]State law reference

Tennessee Code Annotated, § 57-5-104(b).

[2]State law references

Tennessee Code Annotated, § 57-5-301(a), provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under Tennessee Code Annotated, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C demeanors. City courts are thus

(continued...)

(Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-210. Limitation on number of permits. The number of licenses for the sale of beer are not limited but may be limited in the future upon proper vote and approval of the Board of Commissioners of the City of Maynardville. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-211. 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, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer, within three hundred feet (300') of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

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[2](...continued)
prohibited from enforcing ordinances making violations of Tennessee Code Annotated, § 57-5-301(a), a local offense.

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.[1]

(2) As the City of Maynardville, Tennessee, has passed a referendum approving the sale of liquor by the drink within the corporate limits of the City of Maynardville, the hours and operation for the sale of beer shall be set and governed pursuant to the rules and regulations set forth by the Tennessee Alcoholic Beverage Commission.[2]

(3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.[3]

(4) Make or allow any sale of beer to any intoxicated person or to any feebleminded, insane, or otherwise mentally incapacitated person.

(5) Allow drunk persons to loiter about his premises. (Ord. #2010-7A, Oct. 2010, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend 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 or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606, for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell

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[1]State law reference
Tennessee Code Annotated, § 1-3-113(a).

[2]State law reference
Tennessee Code Annotated, § 57-5-106(a), for cities with liquor by the drink, the alcoholic beverage commission sets the hours of operation, which may only be modified by ordinance to reduce hours on Sundays under Tennessee Compilation Rules and Regulations § 0100-01-.03(2).

[3]State law reference
Tennessee Code Annotated, § 57-5-106(a).

beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-214. 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 by the Tennessee Alcoholic Beverage Commission under the Tennessee Responsible Vendor Act of 2006, Tennessee Code Annotated, §§ 57-5-601, et seq.

(2) Penalty, revocation or suspension.[1] The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that 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 any sales to minors, or a civil penalty not to exceed one thousand dollars ($1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars ($1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the City of Maynardville may impose. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-215. Loss of clerk's certification for sale to minor.[2] If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission

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[1]State law reference
Tennessee Code Annotated, § 57-5-108(2).

[2]State law reference
Tennessee Code Annotated, § 57-5-607.

within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-216. Violations and penalty. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (Ord. #2007-15, Aug. 2007, as replaced by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

8-217--8-235. Deleted. (as deleted by Ord. #O-2018-4, Aug. 2018 ***Ch1_01-10-23***)

CHAPTER 3

WINE IN RETAIL FOOD STORES

SECTION

8-301. Inspection fee on retail food store wine licensees. Pursuant to the authority contained in Tennessee Code Annotated, §§ 57-3-501, et seq., there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in Tennessee Code Annotated, § 57-3-101(a)(1)(A), supplied by a wholesaler to a retail food store wine licensee. (as added by Ord. #O-2018-5, Dec. 2018 ***Ch1_01-10-23***)

8-302. Application for certificate. Before any certificate, as required by Tennessee Code Annotated, § 57-3-806, shall be signed by the mayor, or by any aldermen, a request in writing shall be filed with the recorder giving the following information:

(1) Name, age and address of the applicant.

(2) Number of years residence at applicant's address.

(3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.

(4) The location of the proposed store for the sale of alcoholic beverages.

(5) The name and address of the owner of the store.

(6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store. The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. (as added by Ord. #O-2018-5, Dec. 2018 ***Ch1_01-10-23***)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

9-101. "Going out of business" sales. Pursuant to Tennessee Code Annotated, § 47-18-104 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. (2001 Code, § 9-101, modified)

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[1]Municipal code references
Building, plumbing, and housing regulations: title 12.
Junkyards: title 13.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Zoning: title 14.

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.[1]

SECTION

9-201. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the city, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars ($10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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[1]Municipal code references
Privilege taxes: title 5.

(a) Has a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Union County for a period of two (2) years prior to the date of its application for registration under this chapter.

(4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the city, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Transient vendor"[1] means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to

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[1]State law references

Tennessee Code Annotated § 62-30-101 et seq. contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from Tennessee Code Annotated § 62-30-101(3). Note also that Tennessee Code Annotated § 67-4-709(a) prescribes that transient vendors shall pay a tax of $50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated § 67-4-709(b).

selling or offering to sell novelty items and similar goods in the area of the festival or parade.

9-202. Exemptions. The terms of this chapter shall neither apply 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.

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter.

9-204. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city recorder by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

(b) A brief description of the type of business and the goods to be sold.

(c) The dates for which the applicant intends to do business or make solicitations.

(d) The names and permanent addresses of each person who will make sales or solicitations within the city.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

(f) Tennessee State sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of twenty dollars ($20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit.

9-205. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city.

(2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

9-206. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-207. Fundraising roadblocks. (1) Fundraising roadblocks may be conducted within the city limits of Maynardville, Tennessee provided that there is full compliance with all of the terms and provisions contained in this section.

(2) Before any fundraising roadblock is conducted in the City of Maynardville, the participants allowed by this section must first apply for and receive written permission to conduct said fundraising roadblock within the city limits of Maynardville. The City of Maynardville shall provide the proper form to be used for application for permission to conduct said fundraising roadblock and said application must be completed in full before being considered. Permission to conduct said fundraising roadblock shall be granted by the Maynardville City Manager or such designee which the city manager may designate from time to time. All allowed participants applying for permission to conduct a fundraising roadblock must provide a copy of said participant's current liability insurance with detailed coverage limits. Permission to conduct said fundraising roadblock shall not be granted until sufficient proof of current and in effect liability insurance with detailed coverage limits is presented to the City of Maynardville and approved as proper.

(3) No more than two (2) fundraising roadblocks shall be conducted within the City of Maynardville during any month. Applications shall be processed on a first come first served basis and the City of Maynardville reserves the right to not grant permission for the conducting of a fundraising roadblock during any given month if the city so chooses.

(4) Once proper permission to conduct said fundraising roadblock has been granted, the following procedures must all be followed at all times during the time which said roadblock is conducted:

(a) Said fundraising roadblock shall be conducted between the hours of 8:00 A.M. and 2:00 P.M. on that Saturday or Sunday which permission is granted for and shall take place at the traffic control lights located at the intersection of Tennessee State Highway 33 and Hickory Star Road. No other locations are allowed for the conducting of fundraising roadblocks within the city limits of Maynardville. No vehicles shall be approached during said roadblock until the traffic control light has turned red and the flow of traffic has stopped. No fundraising shall take place during anytime that traffic is proceeding in its normal and customary flow. Said fundraising roadblock shall yield at all times to emergency and law enforcement vehicles.

(b) The organizer of said fundraising roadblock shall designate on the application for said fundraising roadblock the name of that individual who shall be in charge of said fundraising roadblock and said individual must be present at all times while said roadblock is being conducted.

(c) All individuals who participate in said fundraising roadblock must at all times wear proper orange, yellow or other colored reflective safety vests while said roadblock is being conducted. Any individual who does not have on the proper reflective safety vest shall be required to leave and not participate in said roadblock. Failure to comply shall result in the immediate termination of said fundraising roadblock and the Maynardville City Police Department is authorized to take such steps as are reasonable and proper to terminate said roadblock in such event.

(d) All participants granted permission to conduct said fundraising roadblock shall give the time and schedule of said roadblock to the City of Maynardville Police Department.

(5) The participants allowed to conduct fundraising roadblocks within the city limits of the City of Maynardville, provided that proper compliance with all terms and provisions of this section have been met and accomplished, are designated as follows:

(a) The Union County Rescue Squad;
(b) The Paulette Volunteer Fire Department;
(c) The Northeast Union Volunteer Fire Department;
(d) The Union County VFW;

(e) The Union County Children's Center; and

(f) The Shriner's Organization.

The allowed participants listed above can conduct only one (1) fundraising roadblock per year unless permission is granted by the board of commissioners of the City of Maynardville to conduct an additional roadblock within the year. The City of Maynardville specifically reserves the right to designate additional participants allowed to conduct fundraising roadblocks within the City of Maynardville at any time in the future. All allowed participants must conform to and are subject to the terms and provisions contained within this section. The list of allowed participants and all applications under this section shall be retained on file in the office of the Maynardville City Recorder.

(6) The City of Maynardville specifically reserves the right at all times to terminate the right of any allowed participant to conduct future fundraising roadblocks within the City of Maynardville. If such right is terminated, written notice of the termination of said right shall be provided by the city to the participant whose rights are terminated. (Ord. #0-2013-7, Dec. 2013)

9-208. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-209. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the city recorder for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of commissioners. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of commissioners, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or 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 the hearing. Such notice shall be mailed to the permit holder 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.

9-210. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be

issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

9-211. Violations and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

CHAPTER 3

POOL ROOMS

SECTION

9-301. 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 at any time on Sunday or between the hours of 12:00 midnight. and 6:00 A.M. on other days. (2001 Code, § 9-401)

9-302. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire to permit any illegal gambling or other unlawful or immoral conduct on such premises. (2001 Code, § 9-403)

CHAPTER 4

CABLE TELEVISION

SECTION

9-401. To be furnished under franchise. Cable television shall be furnished to the City of Maynardville and its inhabitants under franchise granted by the board of commissioners of the City of Maynardville, Tennessee. The rights, powers, duties and obligations of the City of Maynardville and its inhabitants are clearly stated in the franchise agreement excuted by, and which shall be binding upon the parties concerned.[1]

[1]The cable television franchise agreement is available in the office of the city recorder.

CHAPTER 5

SEXUALLY ORIENTED ESTABLISHMENTS

SECTION

9-501. Purpose and findings. It is the purpose of this chapter is to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material. (Ord. #0-2005-12, Dec. 2005)

9-502. Findings and rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the council, and on findings, interpretations, and narrowing constructions incorporated in the cases of City of Littleton v. Z. J. Gifts D-4, L.L.C., 124 S. Ct. 2219 (June 7, 2004); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); Pap's A.M. v. City of Erie, 529 U.S. 277 (2000); City of Renton v. Playmate Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 427 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); DLS, Inc. v. City of Chattanooga, 107 F. 3d 403 (6th Cir. 1997); Brandywine, Inc., v. City of Richmond, 359 F.3d 830 (6th Cir. 2004); Currence v. City of Cincinnati, 2002 U.S. App. LEXIS 1258; Broadway Books v. Roberts, 642 F. Supp. 486 (E.D. Tenn 1986); Bright Lights, Inc. v. City of Newport, 830 F. Supp. 378 (E.D. Ky. 1993); Richland Bookmart v. Nichols, 137 F.3d 435 (6th Cir. 1998); Center for Fair Public Policy v. Maricopa County, 336 F.3d 1153 (9th Cir. 2003); Deja vu Metro Government, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); Bamon Corp. v. City of Dayton, 7923 F.2d 470 (6th Cir.1991); Triplett Grille, Inc. v. City of Akron, 40 F.3d 129 (6th Cir. 1994); O 'Connor v. City and County of Denver, 894 F.2d 1210 (l0th Cir. 1990); Deja vu of Nashville. Inc., et al. v. Metropolitan Government of Nashville and Davidson County, 274 F.3d 377 (6th Cir. 2001); Z. J. Gifts D-2, L.L.C. v. City of Aurora, 136 F.3d 683 (l0th Cir. 1998); ILO Investments, v. City of Rochester, 25 F.3d 1413 (8th Cir. 1994); Threesome Entertainment v. Strittmather, 4 F. Supp. 2d 710 (N.D. Ohio 1998); Bigg World Discount Video Sales, Inc. v. Montgomery County; 256 F. Supp. 2d 385 (D. Md. 2003); Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County, 209 F. Supp. 2d 672 (W.D. Ky. 2002); Lady J. Lingerie, Inc. v. City of Jacksonville, 176 F.3d 1358 (11th C ir. 1999); Restaurant Ventures v. Lexington-Fayette Urban County Gov't., 60 S.W. 3d 572 (City of Tullahoma. App. Ky. 2001); World Wide Video of Washington. Inc., v. City of Spokane. 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc., v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garen Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Minneapolis, Minnesota - 1980; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the board of commissioners finds:

(1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanisms to make the owners

of these establishments responsible for the activities that occur on their premises.

(2) Certain employees of sexually oriented businesses, defined in this chapter as adult theaters and adult cabarets, engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(4) Offering and providing such space encourages such activities, which creates unhealthy conditions.

(5) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(6) At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, non A, non B amegiasis, salmonella infections and shigella infections.

(7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the human immunodeficiency virus (HIV) in the United States; 600 in 1982; 2,200 in 1983; 4,600 in 1984; 8,555 in 1985, and 253,448 through December 31, 1992.

(8) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982, and 45,200 through November, 1990.

(9) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

(10) In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(11) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(12) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(13) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(14) The findings noted in subsections (1) through (13) raise substantial governmental concerns.

(15) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(16) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(17) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

(18) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(19) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(20) In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent, or who are likely to be witnesses to such conduct.

(21) The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.

(22) The barring of such individuals from the management of adult uses for a period of years serves as deterrent to, and prevents conduct which leads to, the transmission of sexually transmitted diseases.

(23) The general welfare, health, morals, and safety of the citizens of the city will be promoted by the enactment of this chapter. (Ord. #0-2005-12, Dec. 2005)

9-503. <u>Definitions</u>. Words, terms and phrases in this chapter shall be defined as follows:

(1) "Adult arcade" means any place to which the public is permitted or invited, wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore" or "adult video store" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas."

A business purpose shall be a principal business purpose if any one of the following applies:

(a) A principal portion of the business' displayed merchandise consists of the foregoing enumerated items, or

(b) A principal portion of the wholesale value of the business' displayed merchandise consists of the foregoing enumerated items, or

(c) A principal portion of the retail value of the business' displayed merchandise consists of the foregoing enumerated items, or

(d) A principal portion of the business' revenues derive from the sale or rental, for any form of consideration of the foregoing enumerated items, or

(e) A principal portion of business' interior display space is used for the display, sale, or rental of the foregoing enumerated items, or

(f) A substantial or significant portion of the business' stock and trade is books, magazines and other periodicals, videotapes or other electronic media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or

(g) The business is an adult arcade, which is any place to which the public is permitted or invited where coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas." For the purposes of this chapter, substantive or significant shall mean more than one-third (⅓).

(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(a) Persons who appear semi-nude; or

(b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

(c) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of "specified sexual activities" or "specified anatomical areas."

(4) "Adult motel" means a motel, hotel, or similar commercial establishment which:

(a) Offers accommodation to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the exhibition or display of "specified sexual activities" or "specified anatomical areas," and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; and either

(b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

(5) "Adult motion picture theater"' means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(6) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear nude or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(7) "City" means the City of Maynardville, Tennessee.

(8) "Distinguished or characterized by and emphasis upon" means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or display of "specified anatomical areas" or "specified sexual activities." As applied in this section, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

(9) "Employee," "employ" and "employment" describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by

another status. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.

(10) "Enforcement officer" shall mean the code enforcement or police officer or such person as may be designed by the board of commissioners.

(11) "Escort" means a person who, for consideration, and for another person, agrees or offers:

(a) To act as a companion, guide, or date, or

(b) To privately model lingerie, or

(c) To privately perform a striptease.

(12) "Escort agency" means a person or business association that for a fee, tip, or other consideration, furnishes, offers to furnish, or advertises to furnish, escorts as one of its primary business purposes.

(13) "Establish" or "establishment" means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business to any sexually oriented business;

(c) The addition of any sexually oriented business to any other existing sexually oriented business; or

(d) The relocation of any sexually oriented business.

(14) "Licensed day-care center" means a facility licensed by the State of Tennessee, located within the corporate limits of the city, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age for less than twenty-four (24) hours a day, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

(15) "Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

(16) "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(17) "Operate" or "cause to be operated" means to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operation, the business. A person may be found to be operating or

causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

(18) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(19) "Regularly features" or "regularly shown" means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

(20) "Semi-nude" or "in a semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

(21) "Semi-nude model studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

(ii) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class.

(22) "Sexual device" means any three-dimensional object primarily designed and marketed for the stimulation of the male or female human genital organs or anus, and shall include three-dimensional reproductions or representations of the human genital organs or anus. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

(23) "Sexual device shop" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

(24) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of "specified sexual activities." The definition of sexual encounter center or any sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

(25) "Sexually oriented business "means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, semi-nude model studio, or sexual encounter center.

(26) "Specified anatomical area" means:

(a) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(b) Less than completely and opaquely covered human genital,; pubic region, buttock, or a female breast below a point immediately above the top of the areola; and

(27) "Specified criminal activity" means any of the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity relating to a sexually oriented business; sexual assault; molestation of a child, distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

(b) For which:

(i) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(iii) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or a combination of misdemeanor offenses occurring within any twenty-four (24) month period.

(c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

(28) "Specified sexual activities" means any of the following:

(a) The fondling of another person's genitals, pubic region, anus or female breasts;

(b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or

(c) Excretory functions as a part of or in connection with any of the activities set forth in subsections (1) through (2) above.

(29) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this chapter takes effect.

(30) "Transfer of ownership or control of a sexually oriented business" means and includes any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. #0-2005-12, Dec. 2005, modified)

9-504. Classification. Sexually oriented businesses are classified as follows:

(1) Adult arcades;
(2) Adult bookstores, adult novelty stores, or adult video stores;
(3) Adult cabarets;
(4) Adult motels;
(5) Adult motion picture theaters;
(6) Adult theaters;
(7) Escort agencies;
(8) Semi-nude model studios; and
(9) Sexual encounter centers. (Ord. #0-2005-12, Dec. 2005)

9-505. License required. (1) It is unlawful:

(a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this chapter.

(b) For any person who operates a sexually oriented business to employee a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the city pursuant to this chapter.

(c) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(2) An application for a license must be made on a form provided by the city. All applicants must be qualified according to the provisions of this chapter.

(3) An applicant for a sexually oriented business license or a sexually oriented business employee licensed shall file with the enforcement officer a completed application made on a form prescribed and provided by the city recorder. An application shall be considered complete if it includes the information required in this section. The applicant shall be qualified according to the provisions of this chapter. The application shall be notarized. The application shall include the information called for in subsections (a) through (h), and where applicable, subsection (i), as follows:

(a) The full true name and any other names used in the preceding five (5) years.

(b) The current business address and any other mailing address of the applicant.

(c) Either a set of fingerprints suitable for conducting necessary background checks pursuant to this chapter, or the applicant's Social Security number, to be used for the same purpose.

(d) Two (2) portrait photographs at least two (2) inches by two (2) inches of each applicant.

(e) The names and addresses of all persons, partnerships, limited liability, entities, or corporations holding any beneficial in the real estate upon which such adult oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees submitting to applicant.

(f) If the application is for a sexually oriented business license, the name, business location, legal description, business mailing address and phone number of the proposed sexually oriented business.

(g) Written proof of age, in the form of either

(i) A copy of the birth certificate and current photo,

(ii) A current driver's license with picture, or

(iii) Other picture identification document issued by a governmental agency.

(h) The issuing jurisdiction and the effective dates of any license or permit held by the applicant relating to a sexually oriented business, and whether any such license or permit has been denied, revoked, or suspended, and if so, the reason or reasons therefor.

(i) If the application is for a sexually oriented business license, the name and address of the statutory agent or other agent authorized to receive service of process.

The information provided pursuant to subsections (a) through (i) shall be supplemented in writing by certified mail, return receipt requested, to the enforcement officer within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(4) The application for a sexually oriented business license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(5) If the person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If the person that wishes to operate a sexually oriented business is other than an individual (such as a corporation), each officer, director, general partner, or other person who will participate directly in decisions relating to management of the business shall sign the application for a license as the applicant. Each applicant must be qualified under § 9-605, and each applicant shall be considered as a licensee if a license is granted.

(6) A person who possesses a valid business license is not exempt from the requirement of obtaining any required sexually oriented business license. A person who operates a sexually oriented business and possesses a business license shall comply with the requirements and provisions of this chapter, where applicable.

(7) The applicant shall state that he or she is familiar with the provisions of this chapter and is in compliance with and will continue to comply with the provisions of this chapter. The applicant shall further acknowledge that he or she understands that his or her failure to comply with the chapter shall result in the denial, suspension or revocation of a license. (Ord. #0-2005-12, Dec. 2005)

9-506. <u>Issuance of license</u>. (1) Upon the filing of a completed application for a sexually oriented business license or a sexually oriented business employee license, the city recorder shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city recorder to deny or grant the license. Within twenty (20) days after the receipt of a completed application, the city recorder shall either issue a license, or issue a written notice of intent to deny a license, to the applicant. The city recorder shall approve the issuance of a license unless one or more of the following is found to be true:

(a) An applicant is less than eighteen (18) years of age.

(b) An applicant is delinquent in the payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.

(c) An applicant has failed to provide information as required by § 9-605 for issuance of the license.

(d) An applicant has been convicted of a specified criminal activity. The fact that a conviction is being appealed shall have no effect under this subsection. For the purpose of this subsection, "conviction" means:

(i) A conviction, a guilty plea, or a plea of nolo contendre;

(ii) Includes a conviction of any business entity for which the application had, at the time of the offense leading to the conviction for a specified criminal activity, a management responsibility or a controlling interest.

(e) The license application fee required by this chapter has not been paid.

(f) An applicant has falsely answered a question or request for information on the application form.

(g) The proposed sexually oriented business is located in a zoning district other than a district in which sexually oriented businesses are allowed to operate under the Maynardville Zoning Ordinance, or is not in compliance with the location restrictions established for sexually oriented businesses in the appropriate zoning district(s).

(2) An applicant that is ineligible for a license due to subsection (1)(d) of this section may qualify for a sexually oriented business license only when the time period required by the applicable subsection in § 9-502 has elapsed.

(3) The license, if granted, shall state on its fact the name of the person or persons to whom it is granted, the number of the license issued to that applicant, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. A sexually oriented business employee license shall contain a photograph of the licensee. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing, and shall produce such license for inspection upon request by a law enforcement officer or other authorized city official. (Ord. #0-2005-12, Dec. 2005, modified)

9-507. <u>Fees</u>. Each applicant shall pay a non-refundable initial application, license fee of two hundred fifty dollars ($250.00) and annual renewal fee of one hundred twenty-five dollars ($125.00) for a sexually oriented business license. Each applicant for a sexually oriented business employee license shall pay the fee of one hundred dollars ($100.00) for the initial license, and fifty dollars ($50.00) for the renewal fee, for a sexually oriented business employee license. (Ord. #0-2005-12, Dec. 2005)

9-508. Inspection. (1) For the purpose of ensuring compliance with this chapter, an applicant, operator or licensee shall permit law enforcement officers and any other federal, state, county or city agency in the performance of any function connected with the enforcement of this chapter, normally and regularly conducted by such agencies, to inspect, at any time the business is occupied or open for business, those portions of the premises of a sexually oriented business which patrons or customers are permitted to occupy.

(2) The provisions of this section do not apply to areas of an adult motel which re currently being rented by a customer for use as a permanent or temporary habitation. (Ord. #0-2005-12, Dec. 2005)

9-509. Expiration of license. (1) Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in § 9-505. An application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

(2) When the city denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to the denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date that the denial became final. (Ord. #0-2005-12, Dec. 2005)

9-510. Suspension. The city shall issue a written intent to suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with any section of this chapter; or

(2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter. (Ord. #0-2005-12, Dec. 2005)

9-511. Revocation. (1) The enforcement officer shall issue a written statement of intent to revoke a sexually oriented business license if a cause of suspension in § 9-510 occurs and the license has been suspended within the preceding twelve (12) months.

(2) The enforcement officer shall issue a written statement of intent to revoke a sexually oriented business license if the enforcement officer determines that:

(a) A licensee gave false or misleading information in the material submitted during the application process;

(b) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(c) A licensee has knowingly allowed prostitution on the premises;

(d) A licensee has knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(e) A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises. This subsection will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either

(i) In exchange for money, or

(ii) In a public place or within public view.

(3) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(4) When, after the notice and hearing procedure described in § 9-512, the enforcement officer revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation becomes effective, provided that, if the conditions of § 9-512(2) are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the enforcement officer finds that the basis for the revocation found in subsections (2)(a) and (2)(d) of this section has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. (Ord. #0-2005-12, Dec. 2005)

9-512. Hearing; license denial; suspension, revocation; appeal.

(1) If the enforcement officer determines that facts exist for denial, suspension, or revocation of a license under this chapter, the enforcement officer shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend, or revoke the license, including the grounds thereof, by personal delivery, or by certified mail. The notification shall be directed to the most current business address on file with the enforcement officer. Within five (5) working days of receipt of such notice, the respondent may provide to the city manager, in writing, a response that shall include a statement of reasons why the license or permit should not be denied, suspended, or revoked. Within three (3) days of the receipt of respondent's written response, the city manager shall notify respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding.

Within ten (10) working days of the receipt of respondent's written response, the city manager shall conduct a hearing at which respondent shall have the opportunity to be represented by counsel and present evidence and witnesses on his or her behalf. If a response is not received by the city manager in the time stated or, if after the hearing, the city manager finds that grounds as specified in this chapter exist for denial, suspension, or revocation, then such denial, suspension, or revocation shall become final five (5) days after the city manager sends, by certified mail, written notice that the license has been

denied, suspended, or revoked. Such notice shall include a statement advising the applicant or licensee of the right to appeal such decision to a court of competent jurisdiction.

If the city manager finds that no grounds exist for denial, suspension, or revocation of a license, then within five (5) days after the hearing, the city manager shall withdraw the intent to deny, suspend, or revoke the license, and shall so notify the respondent in writing by certified mail of such action and shall contemporaneously issue the license.

(2) When a decision to deny, suspend, or revoke a license becomes final, the applicant or licensee (aggrieved party) whose application for a license has been denied, or whose license has been suspended or revoked, shall have the right to appeal such action to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of the denial, suspension or revocation, the city shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee, as the case may be, and will expire upon the court's entry of a judgment on the aggrieved party's action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement. (Ord. #0-2005-12, Dec. 2005)

9-513. Transfer of license. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Ord. #0-2005-12, Dec. 2005)

9-514. Location of sexually oriented businesses. (1) A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than commercial, business or industrial, as defined and described in the Maynardville Zoning Ordinance.

(2) A person commits an offense if the person operates or causes to be operated a sexually oriented business within one thousand feet (1,000') of:

(a) A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities;

(b) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(c) A boundary of a residential district as defined in the Maynardville Zoning Ordinance;

(d) A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;

(e) The property line of a lot devoted to a residential use as defined in the Maynardville Zoning Ordinance;

(f) An entertainment business which is oriented primarily towards children or family entertainment; or

(g) Any premises licensed pursuant to the alcoholic beverage control regulations of the state.

(3) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within two thousand feet (2,000') of another sexually oriented business.

(4) A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(5) For the purpose of subsection (2) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (2). The presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(6) For purposes of subsection (3) of this section, the distance between any two (2) sexually oriented business shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(7) Any sexually oriented business lawfully operating on December 13, 2005, that is in violation of subsection (1) through (6) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within two thousand (2,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was

first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

(8) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection (2) of this section within two thousand (2,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application is made for a license after the applicant's previous license has expired or been revoked. (Ord. #0-2005-12, Dec. 2005)

9-515. Alcoholic beverages prohibited. The sale, furnishing or use of any alcoholic beverages as defined in Tennessee Code Annotated, § 57-3-101(a)(1) or beer as defined in Tennessee Code Annotated, § 57-5-101(a) and (b) in any sexually oriented business specified in § 9-504 is prohibited. (Ord. #0-2005-12, Dec. 2005)

9-516. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms. (1) A person who operates or causes to be operated a sexually oriented business (other than an adult motel) which exhibits on the premises, in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit, if granted, will be conspicuously posted. A professionally prepared diagram the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The city may waive the foregoing diagram for renewal application if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manger's station may be made without the prior approval of the city.

(d) It is the duty of the licensee of the premises to ensure that at least one (1) licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be direct line of sight from the manager's station.

(f) It shall be the duty of the licensee to ensure that the view specified in subsection (e) remains unobstructed by any doors, curtains, partition, walls, merchandise, display racks, or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.

(g) No viewing room may be occupied by more than one (1) person at any time.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level.

(i) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(j) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(k) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(l) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within forty-eight (48) inches of the floor.

(2) A person having a duty under subsections (a) through (n) of subsection (1) herein commits a misdemeanor if he or she knowingly fails to fulfill that duty. (Ord. #0-2005-12, Dec. 2005)

9-517. Additional regulations for escort agencies. (1) An escort agency shall not employ any person under the age of eighteen (18) years.

(2) A person commits an offense if the person acts as an escort, or agrees to act as an escort, for any person under the age of eighteen (18) years. (Ord. #0-2005-12, Dec. 2005)

9-518. Additional regulations concerning public nudity. (1) It shall be a misdemeanor for a person to knowingly and intentionally, in a sexually oriented business, appear in a state of nudity or engage in specified sexual activities.

(2) It shall be a misdemeanor for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition, unless the person is an employee who, while semi-nude, is at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.

(3) It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity directly to any employee, while that employee is semi-nude in a sexually oriented business.

(4) It shall be a misdemeanor for an employee, while semi-nude, to knowingly and intentionally touch a customer or the clothing of a customer. (Ord. #0-2005-12, Dec. 2005)

9-519. Display for sale or rental of material harmful to minors.[1]

(1) It is unlawful for a person to display for sale or rental a visual depiction, including a videocassette tape or film, video game, computer software game, or a written representation, including a book, magazine or pamphlet, that contains material harmful to minors anywhere minors are lawfully admitted.

(2) The state has the burden of proving that the material is displayed. Material is not considered display under this section if:

(a) The material is:

(i) Placed in "binder racks" that cover the lower two thirds (2/3) of the material and the viewable one third (1/3) is not harmful to minors;

(ii) Located at a height of not less than five and one have feet (5 1/2') from the floor; and

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[1]State law reference

Tennessee Code Annotated, § 39-17-914.

(iii) Reasonable steps are taken to prevent minors from perusing the material.

(b) The material is sealed, and, if it contains material on its cover that is harmful to minors, it must also be opaquely wrapped;

(c) The material is placed out of sight underneath the counter; or

(d) The material is located so that the material is not open to view by minors and is located in an area restricted to adults;

(e) Unless its cover contains material which is harmful to minors, a video cassette tape or film is not considered displayed if it is in a form that cannot be viewed without electrical or mechanical equipment and the equipment is not being used to produce a visual depiction; or

(f) In a situation if the minor is accompanied by the minor's parents or guardian, unless the area is restricted to adults as provided in subsection (2)(d).

(3) A violation of this section is a Class C misdemeanor for each day the person is in violation of this section.

9-520. Prohibition against children in a sexually oriented business. A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business. (Ord. #0-2005-12, Dec. 2005)

9-521. Hours of operation. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of eleven o'clock (11:00) P.M. and ten o'clock (10:00) A.M. on weekdays and Saturdays, and eleven o'clock (11:00) A.M. and noon (12:00) P.M. on Sundays. (Ord. #0-2005-12, Dec. 2005)

9-522. Exemptions. It is a defense to prosecution under § 9-517 that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school, licensed by the State of Tennessee; a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(b) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(c) Where no more than one (1) nude model is on the premises at any one time. (Ord. #0-2005-12, Dec. 2005)

9-523. Injunction. A person who operates or causes to be operated a sexually oriented business without a valid license or otherwise in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of fifty dollars ($50.00). (Ord. #0-2005-12, Dec. 2005, modified)

9-524. Violations and penalty. Any person who violates any provision of this chapter shall, upon conviction or upon a plea of guilty or nolo contendre shall be fined fifty dollars ($50.00). Each day of any activity prohibited by this chapter which takes place constitutes a separate offense or violation. (Ord. #0-2005-12, Dec. 2005, modified)

CHAPTER 6

MASSAGE PARLORS

SECTION

9-601. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Employee" means any person over eighteen (18) years of age other than a massagist, masseurs, and masseuses who renders any service in connection with the operation of a massage business or establishment and receives compensation from the operator of such business for its patrons.

(2) "Licensee" means the person to whom a license has been issued to own and operate a massage establishment.

(3) "Massage " means any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating

external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotion, ointment or other similar preparations commonly used in the practice of massage under such certain circumstances that it is reasonably expected that the person to whom the treatment is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity therefor.

(4) "Massage parlor" means any establishment having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person engages in or carries on any of the activities listed under the definition of massage in this section.

(5) "Massagist" means a massagist, masseur, masseuse or any person who, for any consideration whatsoever engages in the practice of massage.

(6) "Outcall massage service" means any business, the function of which is to engage in or carry on massages at a location designated by the customer or client, rather than at a massage establishment.

(7) "Patron" means any person over eighteen (18) years of age who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(8) "Permittee" means any person to whom a permit has been issued to act in the capacity of a massagist, masseur or masseuse.

(9) "Person" means any individual, partnership, film, association, joint stock company, limited liability company, corporation or combination of individuals of whatever form or character.

(10) "Recognized school" means any school or education or educational institution licensed to do business as a school or educational institution in the state in which it is located or any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Inc., and which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study of not less than seventy (70) hours before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of a course of study or learning.

(11) "Sexual or genital area" means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female. (Ord. #0-2005-14, Dec. 2005)

9-602. <u>Exemptions</u>. This chapter shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

(1) Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the state.

(2) Nurses who are registered under the laws of this state.

(3) Barbers and beauticians who are duly licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes. (Ord. #0-2005-14, Dec. 2005)

9-603. Establishment license required. No person shall engage in or carry out the business of massage parlor unless such person has a valid massage establishment license issued by the city pursuant to the provisions of this chapter for each and every separate office or place of business conducted by such person. (Ord. #0-2005-14, Dec. 2005)

9-604. Application for massage establishment license. Every applicant for a license to maintain, operate or conduct a massage parlor establishment shall file an application under oath with the city upon a form provided by the city recorder and pay a nonrefundable annual license fee, which shall be two hundred fifty dollars ($250.00) per year or any part thereof. The application, once accepted, shall be referred to the police department for investigation. Copies of the application shall within five (5) days also be referred to the compliance officer and the county health department. The departments shall within thirty (30) days inspect the premises proposed to be operated as a massage establishment, and shall make written verification to the city recorder concerning compliance with the codes of the city that they administer. The police department shall make investigation of the applicant's character and qualifications. Each application shall contain the following information:

(1) A definition of service to be provided.

(2) The location, mailing address and all telephone numbers where the business is to be conducted.

(3) The name and residence address of the applicant, including the following if the applicant is other than a natural person.

(a) If the applicant is a corporation, the names and residence addresses of each of the officers and directors of the corporation and of each stockholder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself if different from the address of the massage establishment.

(b) If the applicant is a partnership or limited liability company, the names and residence addresses of each of the partners or members, including limited partners, and the address of the partnership or limited liability company itself if different from the address of the massage establishment.

(4) The two (2) previous addresses immediately prior to the present address of the applicant.

(5) Proof that the applicant is at least eighteen (18) years of age.

(6) Individual or partnership applicant's height, weight, color of eyes and hair, and sex.

(7) A copy of identification such as a driver's license and social security card.

(8) One (1) portrait photograph of the applicant at least two inches (2") by two inches (2") in size, and a complete set of the applicant's fingerprints, which shall be taken by the chief of police or his agent. If the applicant is a corporation, limited liability company or partnership, this shall include the following:

(a) If the applicant is a corporation, one (1) portrait photograph at least two inches by two inches (2" x 2") in size of all officers and managing agents of the corporation, and a complete set of the same officers' and agents' fingerprints, which shall be taken by the chief of police or his agent.

(b) If the applicant is a partnership or limited liability company, one (1) front-face portrait photograph at least two inches (2') by two inches (2') in size of each partner or member, including limited partners in the partnership, and a complete set of each partner, member or limited partner's fingerprints, which shall be taken by the chief of police or his agent.

(9) Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.

(10) The massage or similar business license history of the applicant; and whether such person, in previously operating in this or another city or state, has had a business license revoked or suspended, the reason thereof, and the business activity or occupation subsequent to such action of suspension or revocation.

(11) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(12) The name and address of each massagist who is or will be employed in the establishment.

(13) A diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught; provided, however, that if the applicant will not personally engage in the practice of massage, the applicant need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught.

(14) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in subsection (3) of this section wherein the business or profession of massage is carried on.

(15) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(16) Authorization for the city and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application, and the qualifications of the applicant for the license.

(17) Such other identification and information necessary to discover the truth of the matters specified in this section as required to be set forth in the application.

(18) The names, current addresses and written statements of at least three (3) bona fide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the city, then the county, then the state and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

Upon completion of such form and the furnishing of all information required in this section, the city recorder shall accept the application for the necessary investigations. The holder of a massage parlor establishment license shall notify the police department of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs. (Ord. #0-2005-14, Dec. 2005)

9-605. Massagist's permit required. No person shall practice massage as a massagist, employee or otherwise unless he has a valid and subsisting massagist's permit issued to him by the city pursuant to the provisions of this chapter. (Ord. #0-2005-14, Dec. 2005)

9-606. Application. Application for a massagist's permit shall be made to the city recorder in the same manner as provided in this chapter for massage establishment licenses, accompanied by the annual nonrefundable massagist's permit fee of one hundred dollars ($100.00) per year or part thereof. The application shall contain but not be limited to the following:

(1) The business address and all telephone numbers where the massage is to be practiced;

(2) Name and residence address, and all names, nicknames and aliases by which the applicant has been known, including the two (2) previous addresses immediately prior to the present address of the applicant;

(3) Social security number, driver's license number, if any, and date of birth;

(4) The applicant's weight, height, color of hair and eyes, and sex;

(5) Written evidence that the applicant is at least eighteen (18) years of age;

(6) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance, except misdemeanor traffic violations;

(7) Fingerprints of the applicant taken by the police department;

(8) Two (2) front-face portrait photographs taken within thirty (30) days of the date of application, at least two (2) inches by two (2) inches in size;

(9) The name and address of the recognized school attended, the date attended, and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has completed not less than seventy (70) hours of instruction;

(10) The massage or similar business history and experience ten (10) years prior to the date of application, including but not limited to whether or not such person, in previously operating in this or another city or state under license or permit, has had such license or permit denied, revoked or suspended, and the reasons therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation;

(11) The names, current addresses and written statements of at least five (5) bona tide permanent residents of the United States, other than relatives, that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the city, then the county, then the state, and lastly from the rest of the United States;

(12) A medical certificate signed by a physician licensed to practice in the state within seven (7) days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the appellant is free of any communicable disease. The information required by this subsection shall be provided at the applicant's expense;

(13) Such other information, identification and physical examination of the person deemed necessary by the city recorder in order to discover the truth of the matters required in this section to be set forth in the application;

(14) Authorization for the city and its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;

(15) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, the declaration being duly dated and signed in the city. (Ord. #0-2005-14, Dec. 2005)

9-607. Approval or denial of license or permit application; term of license or permit. The city shall act to approve or deny an application for a license or permit under this chapter within a reasonable period of time, and in no event shall the city act to approve or deny the license or permit later than ninety (90) days from the date that the application was accepted by the city recorder. Every license or permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of its issuance, unless sooner suspended or revoked. (Ord. #0-2005-14, Dec. 2005)

9-608. Establishment license--revocation or suspension. Any license issued for a massage establishment may be revoked or suspended by the

city recorder after notice and a hearing, for good cause, or in any case where any of the provisions of this chapter are violated, or where any employee of the licensee, including a masseur or masseuse, is engaged in any conduct which violates any of the state or local laws or ordinances at the licensee's place of business and the licensee has actual or constructive knowledge by due diligence. Such license may also be revoked or suspended by the city, after notice and hearing, upon the recommendation of the county health department that such business is being managed, conducted or maintained without regard to proper sanitation and hygiene. (Ord. #0-2005-14, Dec. 2005, modified)

9-609. Massagist's permit--revocation or suspension. A massagist's permit issued by the city recorder shall be revoked or suspended where it appears that the massagist has been convicted of any offense which would be cause for denial of a permit upon an original application, has made a false statement on an application for a permit, or has committed an act in violation of this chapter. (Ord. #0-2005-14, Dec. 2005, modified)

9-610. Inspections. (1) Required. The chief of police or his authorized representative shall from time to time make inspection of each massage business establishment for the purpose of determining that the provisions of this chapter are fully complied with. It shall be unlawful for any permittee to fail to allow such inspection officers access to the premises or hinder such officer in any manner.

(2) To be permitted; application for search warrant. If in the opinion of the chief of police or his authorized representative, there is probable cause to enter a massage establishment for the purpose of making inspections and examinations pursuant to this chapter, he shall request the owner or occupant thereof to grant permission for such entry, and if refused he shall inform the chief of police, and he, or his designee, a police officer, shall make application to a judge of the circuit court for a search warrant showing the judge why the search warrant should be issued for the purposes set forth in this chapter. (Ord. #0-2005-14, Dec. 2005)

9-611. Grounds for denial of license or permit. The city shall issue a license for a massage establishment or a permit for a massagist if all requirements for a massage establishment license or massagist permit described in this chapter are met, unless it finds that:

(1) The correct permit or license fee has not been tendered to the city and, in the case of a check of bank draft, honored with payment upon presentation.

(2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including but not limited to the city's building, zoning, fire and health regulations.

(3) The applicant, if an individual; or any of the stockholders holding more than ten (10) percent of the stock of the corporation or any of the officers and directors, if the applicant is a corporation; or any of the partners or members, including limited partners, if the applicant is a partnership or limited liability company; or the holder of any lien of any nature upon the business or the equipment used therein; and the manager or other person principally in charge of the operation of the business have been convicted of any of the following offenses or convicted of an offense without the state that would have constituted any of the following offenses if committed within the state:

(a) An offense involving the use of force and violence upon the person of another that amounts to a felony.

(b) An offense involving sexual misconduct.

(c) An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The city may issue a license or permit to any person convicted of any of the crimes described in this subsection (3) if it finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions for crimes mentioned in this section.

(4) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(5) The applicant has had a massage business, masseur other similar permit or license denied, revoked or suspended by the city or any other state or local agency within five (5) years prior to the date of the application.

(6) The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners or members, including limited partners, if the applicant is a partnership or limited liability company; and the manager or other person principally in charge of the operation of the business is not over the age of eighteen (18) years. (Ord. #0-2005-14, Dec. 2005)

9-612. Waiver of license or permit application requirements. The city shall waive the requirements of subsections 9-606(13) and 9-609(9) if the applicant furnishes satisfactory evidence that he attended not less than seventy (70) hours of instruction in a school within or without this state or in any foreign country that provides education substantially equal to or in excess of the educational requirements of this chapter. (Ord. #0-2005-14, Dec. 2005)

9-613. Licenses for multiple locations. Should any massage business have more than one (1) location where the business of massage is pursued, then a license stating both the address of the principal place of business and of the other locations shall be issued by the city recorder upon the tender of a license fee of two hundred dollars ($200.00) for each additional location. Licenses issued for other locations shall terminate on the same date as that of the principal

place of business, regardless of the date of issuance. (Ord. #0-2005-14, Dec. 2005)

9-614. Posting of permits and licenses. (1) Every massagist shall post the permit required by this chapter in his work area.

(2) Every person licensed under this chapter shall display such license in a prominent place. (Ord. #0-2005-14, Dec. 2005)

9-615. Sale or relocation of business. Upon sale, transfer or relocation of massage establishment, the license therefore shall be null and void.; provided, however, that upon the death or incapacity of the licensee or any co-licensee of the establishment, any heir or devisee of a deceased licensee may continue the business of the massage establishment for a reasonable period of time not to exceed sixty (60) days to allow for an orderly transfer of the license. (Ord. #0-2005-14, Dec. 2005)

9-616. Business to be operated under name and at location specified in license. No person granted a license pursuant to this chapter shall operate the massage establishment under a name not specified in his license, nor shall he conduct business under any designation or location not specified in his license. (Ord. #0-2005-14, Dec. 2005)

9-617. Transfer of license or permit. No license or permit shall be transferable. An application for such transfer shall be in writing and shall be accompanied by the fees prescribed in §§ 9-606 and 9-609. The written application for such transfer shall contain the same information as requested in this chapter for initial application for the license or permit. (Ord. #0-2005-14, Dec. 2005, modified)

9-618. Register of employees. The licensee or person designated by the licensee of a massage establishment shall maintain a register of all persons employed at any time as masseurs or masseuses, and their permit numbers. Such register shall be available at the massage establishment to representatives of the city during regular business hours. (Ord. #0-2005-14, Dec. 2005)

9-619. Facilities. No license to conduct a massage establishment shall be issued unless an inspection by the city reveals that the establishment complies with each of the following minimum requirements:

(1) Construction of rooms used for toilets, tubs, steamboats and showers shall be made waterproof with approved waterproofed materials, and shall be installed in accordance with the city building code. Plumbing fixtures shall be installed in accordance with the city plumbing code.

(a) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the city.

(b) Floors of wet and dry heat rooms shall be adequately pitched to one (1) or more floor drains properly connected to the sewer, except that dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.

(c) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(2) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(3) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(4) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one (1) time. Urinals may be substituted for water closets after one (1) water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(5) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

(6) All electrical equipment shall be installed in accordance with the requirements of the city electrical code. (Ord. #0-2005-14, Dec. 2005)

9-620. Operation generally. (1) Cleanliness and sanitation. Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(2) Posting of prices. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(3) Clothing of employees; dressing rooms. All employees, including masseurs and masseuses, shall be clean and wear clean, nontransparent outer garments covering the sexual and genital areas, whose use is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

(4) Sheets and towels. All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity, which shall be laundered after each use thereof and stored in a sanitary manner.

(5) False advertising. No massage establishment granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services. (Ord. #0-2005-14, Dec. 2005)

9-621. Permitting under age person on premises. No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any massage business establishment as masseur, employee or patron, unless such person is on the premises on lawful business. (Ord. #0-2005-14, Dec. 2005)

9-622. Sale or possession of alcoholic beverages on premises. No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed; provided or kept, any alcoholic beverage on the premises of any massage business. (Ord. #0-2005-14, Dec. 2005)

9-623. Hours. No massage business shall be kept open for any purpose between the hours of 10:00 P.M. and 8:00 A.M. (Ord. #0-2005-14, Dec. 2005)

9-624. Employment of massagists not holding permit prohibited. No person shall employ as a massagist any person unless the employee has obtained and has in effect a permit issued pursuant to this chapter. (Ord. #0-2005-14, Dec. 2005)

9-625. Unlawful acts. (1) It shall be unlawful for any person holding a permit under this chapter to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given, and shall be subject to inspection by the police pursuant to § 9-604(3)(b). The requirements of this subsection shall not apply to treatments given in the residence of a patient, in the office of a licensed physician or osteopath or registered physical therapist or chiropractor, or in a regularly established and licensed hospital or sanitarium.

(2) It shall be unlawful for any person in a massage parlor to place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

(3) It shall be unlawful for any person in a massage parlor to expose his or her sexual or genital parts, or any portion thereof, to any other person. It

shall also be unlawful for any person in a massage parlor to expose the sexual or genital parts or any portions thereof of any other person.

(4) It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering the sexual or genital parts of his body.

(5) It shall be unlawful for any person owning, operating, or managing a massage parlor knowingly to cause, allow or permit in or about such massage parlor an agent, employee or any other person under his control or supervision to perform such acts prohibited in subsections (1), (2), or (3) of this section.

(6) It shall be further unlawful for any permittee under this chapter to administer massage on an outcall basis. Such person shall administer massage solely within an establishment licensed to carry on such business under this chapter. Any violation of these provisions shall be deemed grounds for revocation of the permit granted under this chapter. The restriction on outcall massage shall not apply to a permittee who performs outcall massage upon a customer or client who, because of reasons of physical defects or incapacities, or due to illness, is physically unable to travel to the massage establishment. If any outcall massage is performed under this exception, a record of the date and hour of each treatment, the name and address of the customer or client, and the name of the employee administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of the client or customer, shall be kept by the licensee or person or employee designated by the licensee. Such records shall be open to inspection by officials charged with the enforcement of public health laws. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by an employee of the business or the city shall be unlawful.

(7) It shall be unlawful for any massage service to be carried on within any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked. All doors or doorway coverings within a massage establishment shall have an unobstructed opening six (6) inches by six (6) inches in size capable of clear two-way viewing into and out of all cubicles, rooms or booths. The opening shall be not less than four and one-half ($4\ ^{1/2}$) feet from the floor of the establishment, nor more than five and one-half ($5\ ^{1/2}$) feet from the floor. Toilets and cubicles used solely for the application of liquid and vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of the cubicle, room or booth. Nothing contained in this subsection shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments. (Ord. #0-2005-14, Dec. 2005)

9-626. Violations and penalty. Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual owner, employee of the owner, operator or employee of the operator, or whether acting as a mere agent or independent contractor for the owner, employee or operator or acting as a participant or worker, who in any way directly or indirectly gives massages or operates a massage establishment or any of the services defined in this chapter without first obtaining a license or permit from and paying a fee to do so to the city, or who violates any provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction such person shall be fined fifty dollars ($50.00) for each. (Ord. #0-2005-14, Dec. 2005)

TITLE 10

ANIMAL CONTROL

CHAPTER

CHAPTER 1

IN GENERAL

SECTION

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 any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (2001 Code, § 10-101, modified)

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 feet (1,000') of any residence, place of business, or public street, without a permit from the city recorder. The city recorder 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. (2001 Code, § 10-102, modified)

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. (2001 Code, § 10-103)

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 and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (2001 Code, § 10-104)

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. (2001 Code, § 10-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl. (2001 Code, § 10-106)

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 any police officer and confined in a pound provided or designated by the governing body. 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 governing body.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the governing body, to cover the costs of impoundment and maintenance. (2001 Code, § 10-107, modified)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this chapter, the code inspector or police 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. (2001 Code, § 10-108, modified)

10-109. <u>Violations and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty clause of this code.

CHAPTER 2

DOGS AND CATS

SECTION

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat 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 68-8-113) or other applicable law.

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.

10-203. Running at large prohibited.[1] 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.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

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 provide reasonably for the protection of other animals and persons. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.

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[1]State law reference
Tennessee Code Annotated §§ 68-8-107.

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood.

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 chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of commissioners. If the 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, in accordance with a schedule approved by the board of commissioners, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed 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 has a tag evidencing such vaccination placed on its collar.

Any new owner adopting a dog that has not been spayed or neutered must pay a twenty-five dollar ($25.00) deposit before a dog may be released, as required by the Tennessee Spay/Neuter Law.[1]

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[1]State law reference

Tennessee Code Annotated § 44-17-501, et seq., "The Tennessee Spay/Neuter Law," prohibits persons from adopting a dog or cat from an agency (pound, animal shelter, etc.) operated by a municipality unless the dog or cat was already spayed or neutered, was spayed or neutered while in the custody of the agency, or the new owner signs a written agreement to have the animal spayed or neutered within 30 days of the adoption if the animal is sexually mature, or within 30 days after the animal reaches six (6) months of age if it is not sexually mature.

Before an agency may release an animal which has not been spayed or neutered it must collect a twenty-five dollar ($25.00) deposit from the new owner to ensure compliance with the law. If the new owner does not comply with the law, the deposit is forfeited and the agency may file a petition in court to force the new owner to either comply with the law or return the animal.

(continued...)

10-208. <u>Destruction of vicious or infected dogs running at large</u>. 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 any policeman or other properly designated officer.

10-209. <u>Violations and penalty</u>. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

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[1](...continued)

An agency may not spay or neuter a dog or cat that is returned to its <u>original</u> owner within seven (7) days of its being taken into custody by the agency.

TITLE 11

MUNICIPAL OFFENSES

CHAPTER

CHAPTER 1

IN GENERAL

SECTION

11-101. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The word "shall"

(1) "Citation" means a written order issued by a peace officer requiring a person accused of violating the law to appear in a designated court or governmental office on a specified date and time.

(2) "City" means City of Maynardville.

is always mandatory and not merely directory.

(3) "City commission" means the board of commissioners of the city.

(4) "Magistrate" means any state judicial officer, including a judge of municipal court, having original trial jurisdiction over misdemeanors or felonies.

(5) "Peace officer" means an officer and employee or agent of government who has a duty to enforce laws or ordinances imposed by law.

(6) "Public place" means any street, alley, park, sidewalk or public building, or any place of business open to the public or frequented by the public or any portion thereof, and any other place which is open to public view or to which the public or any portion thereof has access. (Ord. #0-2007-10, May 2007)

CHAPTER 2

OFFENSES AGAINST THE PUBLIC PEACE

SECTION

11-201. Disorderly conduct. (1) A person commits an offense who, in a public place and with intent to cause public annoyance or alarm:

(a) Engages in fighting or in violent or threatening behavior;

(b) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(c) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(2) A person also violates this section who makes unreasonable noise which prevents others from carrying on lawful activities. (Ord. #0-2007-10, May 2007)

11-202. Unlawful assembly. Any two (2) or more persons who shall assemble in the city with the intent of being assembled; shall mutually agree to do any unlawful act with force and violence against the property of the city, the person or property of another or against the peace, or to the terror of others; and shall make any movement or preparation therefore shall he guilty of a misdemeanor.

This does not apply to lawful assemblies nor infringe on First Amendment rights. (Ord. #0-2007-10, May 2007, modified)

11-203. 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. (Ord. #0-2007-10, May 2007)

11-204. Anti-noise regulations. (1) 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. 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 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 response 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 person 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 repair 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 therefore 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. (Ord. #0-2007-10, May 2007, modified)

11-205. Violations and penalty. Violation of the provisions of this chapter is punishable by a fine not to exceed fifty dollars ($50.00). Each day a prohibited activity shall continue is considered a separate offense.

CHAPTER 3

OFFENSES AGAINST PUBLIC SAFETY

SECTION

11-301. Interfering with police officer serving civil process. It shall be unlawful for any person to interfere with a police officer serving or executing any civil process. (Ord. #0-2007-10, May 2007)

11-302. Maintenance of dangerous condition. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him within the city any cave, cistern, well, hole, opening, pool, pipe or other condition dangerous to life and limb without adequate cover or safeguard. (Ord. #0-2007-10, May 2007, modified)

11-303. Barbed wire fences or fences containing spike; electric fences. It shall be unlawful for any person to erect along or adjacent to any sidewalk in the city any barbed wire fence or any fence containing spikes, unless the height of the barbed wire or spikes is seven (7) feet or greater It shall also be unlawful for any person to erect, construct or maintain in the city any fence or obstruction which is charged with electricity. Provided, however, that in the case of fences utilized for the purpose of confining livestock such fences may be erected along or adjacent to a sidewalk so long as such fence is no closer than three feet (3) from any sidewalk. (Ord. #0-2007-10, May 2007)

11-304. Use of motorized vehicles on bicycle/pedestrian facility. It shall be unlawful for any person to use motorized vehicles within the right-of-way of any trail or recreational area specifically designated as a bicycle/pedestrian facility by any federal, state or municipal governing authority by law, regulation, ordinance or resolution; provided, however, that this section shall not apply to the use of motorized vehicles when such vehicles are required to meet an emergency where life or health is at risk or to provide continuing police protection of such facilities, or to provide for the continuing upkeep and maintenance of such facilities. (Ord. #0-2007-10, May 2007)

11-305. Public intoxication. It is unlawful for any person to appear in a public place under the influence of a controlled substance or any other intoxicating substance to the degree that:

(1) Such person may be endangered;

(2) There is endangerment to other persons or property; or

(3) Such person unreasonably annoys people in the vicinity. (Ord. #0-2007-10, May 2007)

11-306. Discharge of air guns, spring guns, paint guns, etc. It shall be unlawful for any person to fire or discharge in a dangerous or reckless manner any air gun, air pistol, air rifle, BB gun, spring gun or spring pistol, paint gun or other device which is calculated or intended to propel or project a pellet, BB, paint pellet or similar projectile, whether propelled by spring, compressed air, expanding gas or other force-producing means or method, within the city. (Ord. #0-2007-10, May 2007)

11-307. Violations and penalty. Violation of the provisions of this chapter is punishable by a fine not to exceed fifty dollars ($50.00). Each day a prohibited activity continues is considered a separate offense.

CHAPTER 4

OFFENSES AGAINST PUBLIC OR PRIVATE PROPERTY

SECTION

11-401. Interfering with fire hydrant. It shall be unlawful for any person to turn the water on or interfere with any fireplug or fire hydrant within the city unless such person is an employee of the city and is using the hydrant in the ordinary course of his employment, except by written permission of the city. (Ord. #0-2007-10, May 2007)

11-402. Trespassing. (1) On premises open to the public. (a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc.[1] It shall also 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.

11-403. Trespass by use of motor vehicle. (1) It is unlawful for any person who drives, parks, stands, or otherwise operates a motor vehicle on, through or within a parking area, driving area or roadway located on privately owned property which is provided for use by patrons, customer or employees of business establishments upon that property, or adjoining property or for use otherwise in connection with activities conducted upon that property, or adjoining property, after the person has been requested or ordered to leave the property or to cease doing any of the foregoing actions. A request or order under this section may be given by a law enforcement officer or by the owner, lessee, or other person having the right to the use or control of the property, or any authorized agent or representative thereof, including, but not limited to, private security guards hired to patrol the property.

(2) As used in this section, "motor vehicle" includes an automobile, truck, van, bus, recreational vehicle, camper, motorcycle, motor bike, moped, go-cart, all terrain vehicle, dune buggy, and any other vehicle propelled by motor.

(3) A property owner, lessee or other person having the right to the use or control of property may post signs or other notices upon a parking area, driving area or roadway giving notice of this section and warning that violators will be prosecuted; provided, that the posting of signs or notices shall not be a requirement to prosecution under this section and failure to post signs or notices shall not be a defense to prosecution hereunder. (Ord. #0-2007-10, May 2007)

11-404. Attachment of signs to barriers constructed or owned by a governmental entity. It is unlawful to tie, attach or otherwise place any sign, sheet, board, poster, banner, advertisement, or similar item on any fence or barrier if the fence or barrier was constructed by or is owned by a governmental entity. (Ord. #0-2007-10, May 2007)

11-405. Violations and penalty. Violation of the provisions of this chapter is punishable by a fine not to exceed fifty dollars ($50.00). Each day a prohibited activity continues is considered a separate offense.

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[1]Municipal code reference
Provisions governing peddlers: title 9, chapter 2.

CHAPTER 5

OFFENSES AGAINST PUBLIC WELFARE

SECTION

11-501. Fortunetelling. 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.

11-502. Gambling. (1) It is unlawful to knowingly engage in gambling.

(2) Gambling means risking anything of value for profit whose return is to any degree contingent on chance, or any games of chance associated with casinos, including, but not limited to, slot machines, roulette wheels and the like. Gambling does not include:

(a) A lawful business transaction.

(b) Annual events operated for the benefit of charitable § 501(c)(3) organizations that are authorized pursuant to a two-thirds (2/3) approval of the General Assembly, so long as such events are not prohibited by the Tennessee Constitution, or a state lottery of the type in operation in Tennessee and authorized by amendment to the Constitution of Tennessee and approved by the General Assembly. (Ord. #0-2007-10, May 2007)

11-503. Violations and penalty. Violation of the provisions of this chapter is punishable by a fine not to exceed fifty dollars ($50.00). Each day a prohibited activity continues is considered a separate offense.

CHAPTER 6

CURFEW FOR MINORS

SECTION

11-601. Purpose. The purpose of this chapter is to

(1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the town;

(2) Promote the safety and well-being of minors, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activity, particularly unlawful drug activity, and to being victimized by older criminals; and

(3) Foster and strengthen parental responsibility for children.

11-602. Definitions. As used in this chapter, the following words have the following meanings:

(1) "Curfew hours" means the hours of 12:30 A.M. through 6:00 A.M. each day.

(2) "Emergency" means unforeseen circumstances, and the resulting condition or status, requiring immediate action to safeguard life, limb, or property. The word includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

(3) "Establishment" means any privately-owned business place within the town operated for a profit and to which the public is invited, including, but not limited to, any place of amusement or entertainment. The word “operator” with respect to an establishment means any person, firm, association, partnership (including its members or partners), and any corporation (including its officers) conducting or managing the establishment.

(4) "Minor" means any person under eighteen (18) years of age who has not been emancipated under Tennessee Code Annotated § 29-31-101, et seq.

(5) "Parent" means:

(a) A person who is a minor’s biological or adoptive parent and who has legal custody of the minor, including either parent if custody is shared under a court order or agreement;

(b) A person who is the biological or adoptive parent with whom a minor regularly resides;

(c) A person judicially appointed as the legal guardian of a minor; and/or

(d) A person eighteen (18) years of age or older standing in loco parentis as indicated by authorization by a parent as defined in this definition for the person to assume the care or physical custody of the minor, or as indicated by any other circumstances).

(6) "Person" means an individual and not a legal entity.

(7) "Public place" means any place to which the public or a substantial portion of the public has access, including, but not limited to: streets, sidewalks, alleys, parks, and the common areas of schools, hospitals, apartment houses or buildings, office buildings, transportation facilities, and shops.

(8) "Remain" means

(a) to linger or stay at or upon a place or

(b) to fail to leave a place when requested to do so by a law enforcement officer or by the owner, operator, or other person in control of that place.

(9) "Temporary care facility" means a non-locked, non-restrictive shelter at which a minor may wait, under visual supervision, to be retrieved by a parent. A minor waiting in a temporary care facility may not be handcuffed or secured by handcuffs or otherwise to any stationary object.

11-603. <u>Curfew enacted; exceptions</u>. It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the town, to remain in any motor vehicle operating or parked on any public place within the town, or to remain in or upon the premises of any establishment within the town, unless:

(1) The minor is accompanied by a parent; or

(2) The minor is involved in an emergency; or

(3) The minor is engaged in an employment activity, or is going to or returning home from employment activity, without detour or stop; or

(4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or

(5) The minor is attending an activity supervised by adults and sponsored by a school, religious, or civic organization, by a public organization or agency, or by a similar organization, or the minor is going to or returning from such an activity without detour or stop; or

(6) The minor is on a errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the name, signature, address, and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's

destination(s) and the hours the minor is authorized to be engaged in the errand; or

(7) The minor is involved in interstate travel through, or beginning or terminating in, the City of Maynardville; or

(8) The minor is exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and freedom of assembly.

11-604. Parental involvement in violation unlawful. It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of § 11-603 of this chapter.

11-605. Involvement by owner or operator of vehicle unlawful. It is unlawful for a person who is the owner or operator of a motor vehicle knowingly to permit, allow, or encourage a violation of § 11-603 of this chapter using the motor vehicle.

11-606. Involvement by operator or employee of establishment unlawful. It is unlawful for the operator or any employee of an establishment knowingly to permit, allow, or encourage a minor to remain on the premises of the establishment during curfew hours. It is a defense to prosecution under this section that the operator or employee promptly notified law enforcement officials that a minor was present during curfew hours and refused to leave.

11-607. Giving false information unlawful. It is unlawful for any person, including a minor, knowingly to give a false name, address, or telephone number to any law enforcement officer investigating a possible violation of § 11-603 of this chapter. Each violation of this section is punishable by a maximum fine of fifty dollars ($50.00).

11-608. Enforcement. (1) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-603 shall make an immediate investigation to determine whether or not the presence of the minor in a public place, motor vehicle, or establishment during curfew hours is a violation of that section. If the investigation reveals a violation and the minor has not previously been issued a warning, the officer shall issue a verbal warning to the minor to be followed by a written warning mailed by the police department to the minor and his/her parent(s). If the minor has previously been issued a warning for a violation, the officer shall charge the minor with a violation of § 11-603 and shall issue a citation requiring the minor to appear in court. In either case, the officer shall, as soon as practicable, release the minor to his/her parent(s) or place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours so the parent(s) may retrieve the minor. If a minor refuses to give an officer his/her name and address

or the name and address of his/her parent(s), or if no parent can be located before the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a crisis center or juvenile shelter and/or may be taken to a judge or juvenile intake officer of the juvenile court to be dealt with as required by law.

(2) Others. If an officer's investigation reveals that a person has violated §§ 11-603, § 11-604, § 11-605, or § 11-606 of this chapter and the person has not been issued a warning with respect to a violation, the officer shall issue a verbal warning to the person to be followed by a written warning mailed by the police department to the person. If there has been a previous warning to the person, the officer shall charge the person with a violation and issue a citation directing the person to appear in court.

11-609. Violations and penalty. A violation of § 11-603, § 11-604, § 11-605, or § 11-606 subsequent to receiving a verbal warning as provided in § 11-608 is punishable by a maximum fine of fifty dollars ($50.00) for each violation.

CHAPTER 7

LITTERING

SECTION

11-701. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;

(2) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in Tennessee Code Annotated § 39-17-1503(9) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.

(3) "Refuse" includes all putrescible and non-putrescible solid waste; and

(4) "Rubbish" includes non-putrescible solid waste consisting of both combustible and non-combustible waste. (Ord. #2008-3, March 2008)

11-702. Littering offenses. (1) A person commits the civil offense of littering who:

(a) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;

(b) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or

(c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.

(2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the city judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.

(3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but no limited to, letters, bills, publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the city judge may, in his or her discretion and in consideration of the totality of the

circumstances, infer that such person has committed littering. (Ord. #2008-3, March 2008)

11-703. Scope of regulation. The regulation of litter in this chapter is limited to amounts of litter less than or equal to five pounds (5 lbs.) in weight or seven and one-half (7 1/2) cubic feet in volume. (Ord. #2008-3, March 2008)

11-704. Violations and penalty. Littering is a civil offense punishable by a penalty of a fifty dollar ($50.00) fine. (Ord. #2008-3, March 2008)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

CHAPTER 1

BUILDING CODE[1]

SECTION

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, 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 International Building Code,[2] 2018 edition, as prepared and adopted by the International Code Council, is hereby adopted with the changes listed below and incorporated by reference as a part of this code and is hereinafter referred to as the building code. (as replaced by Ord. #O-2022-8, Sept. 2022 ***Ch1_01-10-23***)

12-102. Modifications. (1) Definitions. Whenever in the building code reference is made to the duties of a certain official named therein, that

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[1]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.

[2]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

designated official shall be that official which has been designated and officially approved by the Board of Commissioners of the City of Maynardville who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Building Code are concerned.

(2) All modifications to said building code shall be made and approved by the Board of Commissioners of the City of Maynardville and said building code shall be modified accordingly.

(3) Permit fees. The schedule of permit fees shall be as set and determined by the Board of Commissioners of the City of Maynardville.

(4) Amendments to the 2018 International Building Code (residential).

- **Permits.** Permit fees adopted by City of Maynardville, Tennessee.
- **Section [AI 101.1** Delete [Name of Jurisdiction] and insert City of Maynardville, Tennessee in its place.
- **Section R302.5.1** Delete the words 'equipped with a self-closing or automatic closing device'. (Opening Protection).
- **Section R303.4** Delete the word 'shall' and replace with 'may' (Mechanical Ventilation).
- **Section R313.1.** Delete the word 'shall' and replace with 'may' (Townhouse Automatic Sprinkler Systems).
- **Section 313.2.** Delete the word 'shall' and replace with 'may'. (One- and Two-Family Dwellings Automatic Sprinkler Systems).
- **Section R314.3** (location and type of smoke detectors).

  Insert "5. In each garage these smoke alarms shall be specifically approved for use in the garages in the manufacturers written instructions. **Exception:** Heat detectors interconnected with the alarm system and having battery backup may be used in a garage.
- **Table NI102.1.2 (R402.1.2) Insulation and fenestration requirements by component.** In row Climate Zone 4 except marine under Ceiling R-Value delete "49" and replace with "38". In the same row under Wood Frame Wall R-Value delete "20 or 13 + 5" and replace with "13".
- **Table N1102.2.10 (R402.2.10)** Slab on grade floors requirement amendment to be optional. (Foam board placement).
- **Section N1102.4.1.2 (R402.4.1.2)** Delete the word 'shall' and replace with 'may'. (Blower door testing).
- **Section N1103.1.1 (R403.1.1)** Add the word 'optional' after the word thermostat in the section title. Before the first sentence insert 'where required by the building official'. (Programmable thermostats).
- **Section N1103.3.3 (R403.3.3)** Delete the word 'mandatory' and replace with 'optional'. (Duct system air leakage test).
- **Section N1103.6 (R403.6)** Delete the word 'mandatory' and replace with 'optional', delete 'The building shall be provided with ventilation that

meets' and replace with 'buildings provided with ventilation shall meet'. (Mandatory mechanical ventilation).

- **Section N1104 (R404)** delete section in its entirety. (Power and lighting systems).
- **Includes these appendices:** (all others excluded).
  - Appendix A- Sizing and Capacities of Gas Piping.
  - Appendix B- Sizing of Venting Systems equipped with draft hoods.
  - Appendix C- Exit Terminals of mechanical draft and direct-vent venting systems.
  - Appendix E- Manufactured Housing used as Dwellings.
  - Appendix H- Patio Covers.
  - Appendix- Home Day Care R-3 Occupancy.
  - Appendix P- Sizing of water piping systems.
  - Appendix Q- Tiny Houses.
  - Appendix T- Solar Ready Provisions Detached one-and-two Dwellings and Townhouses.
- **Table R301.2 (1) Climatic and Geographic Design Criteria.**
  - Insert "10 PSF" in the table for Ground Snow Load.
  - Insert "90" in the table for Wind Speed.
  - Insert "No" in the table for topographic effects.
  - Insert "C" in the table for Seismic Design Category.
  - Insert "Severe" in the table for Weathering.
  - Insert "12 inches" in the table for Frost Line Depth.
  - Insert "Moderate to heavy" in the table for Termite.
  - Insert "19 degrees Fahrenheit" in the table for Winter Design Temperature.
  - Insert "No" in the table for Ice Barrier Underlayment Required.
  - Insert "210" in the table for Air Freezing Index.
  - Insert "59.4" in the table for Mean Annual Temperature.

(5) Amendments to the 2018 International Building Code (commercial).

- **Section [AI 101.1** Delete [Name of Jurisdiction] and insert Union County, Tennessee in its place.
- **Section [AI 101.2.1** Insert 'The following Appendices are specifically included in the adoption. All others are excluded.
  - Appendix C- Group U–Agricultural buildings.
  - Appendix E- Supplementary Accessibility Requirements.
  - Appendix F- Rodent Proofing.
  - Appendix G- Flood Resistant Construction.
  - Appendix H- Signs.
  - Appendix I- Patio Covers.
  - Appendix J- Grading.
  - Appendix K- Administrative Provisions.

- **Section (A) 101.4.3** Delete "International Private Sewage Disposal Code" and replace with Union County Health Department.
- **Section 1015.2** Delete first sentence and replace with 'Guards shall be located along open-sided walking surfaces or ground surfaces including but not limited to mezzanines, equipment platforms, stairs, ramps, landings, retaining walls and any other locations that are located more than thirty (30) inches (762 mm) measured vertically to the floor or grade below at any point within thirty-six (36) inches (914 mm) horizontally to the edge of the open side. (as replaced by Ord. #O-2022-8, Sept. 2022 ***Ch1_01-10-23***)

12-103. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as replaced by Ord. #O-2022-8, Sept. 2022 ***Ch1_01-10-23***)

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference as modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars ($50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #O-2022-8, Sept. 2022 ***Ch1_01-10-23***)

CHAPTER 2

RESIDENTIAL CODE[1]

SECTION

12-201. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code, 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the residential code.

12-202. Modifications. The following sections are hereby revised to read as follows:

(1) Definitions. Whenever the words "Building Official" are used in the residential code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the residential code.

(2) Automatic sprinkler system standards. Section R 313 pertaining to automatic sprinkler systems for townhouses and residential dwellings for single family and double family dwellings is hereby deleted.

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public.

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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[1]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 3

ENERGY CONSERVATION CODE[1]

SECTION

12-301. Energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the International Energy Conservation Code,[2] 2009 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the energy code.

12-302. Modifications. The following sections are hereby revised to read as follows:

"Building Official." Whenever in the energy code these words are used, they shall refer to the person designated by the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public.

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[1]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.

[2]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-304. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

MECHANICAL CODE[1]

SECTION

12-401. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the International Mechanical Code,[2] 2012 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim and is hereinafter referred to as the mechanical code.

12-402. Modifications. The following sections are hereby revised to read as follows:

Definitions. Whenever the words "Building Official" are used in the mechanical code, they shall refer to the person designated by the board of mayor and aldermen to enforce the provisions of the mechanical code.

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public.

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted. The violation of any section of this chapter shall be punishable by a

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[1]Municipal code references
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

[2]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the city manager shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (2001 Code, § 13-101)

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. (2001 Code, § 13-102)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (2001 Code, § 13-103)

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of commissioners shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of commissioners to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Maynardville Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more

than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Union County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars ($500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of commissioners under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds,

underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.

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. (2001 Code, § 13-105)

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. (2001 Code, § 13-106)

13-107. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty clause of this code.

CHAPTER 2

SLUM CLEARANCE[1]

SECTION

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of commissioners finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (2001 Code, § 13-201)

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of commissioners charged with governing the city.

(3) "Municipality" shall mean the City of Maynardville, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

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[1]State law reference
Tennessee Code Annotated, title 13, chapter 21.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed there and pursuant to Tennessee Code Annotated § 13-21-101, et seq.

(9) "Structure"means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (2001 Code, § 13-203, modified)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in court of law or equity shall not be controlling in hearings before the public officer. (2001 Code, § 13-204)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation

or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (2001 Code, § 13-205)

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following 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." (2001 Code, § 13-206)

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (2001 Code, § 13-207)

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall upon the filing of the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes

as set forth in Tennessee Code Annotated §§ 67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Union County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Maynardville to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (2001 Code, § 13-208, modified)

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Maynardville. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (2001 Code, § 13-209)

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Union County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (2001 Code, § 13-210)

13-211. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (2001 Code, § 13-211)

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (2001 Code, § 13-212)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (2001 Code, § 13-213)

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (2001 Code, § 13-214, modified)

13-215. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty clause of this code.

CHAPTER 3

JUNKYARDS

SECTION

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(3) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(4) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city.

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter.

13-303. Screening methods. The following methods and materials for screening are given for consideration only:

(1) Landscape planting. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) Earth grading. The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood.

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen.

13-304. Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the city. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(1) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

(2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(3) Screening shall be located on private property and not on any part of the highway right-of-way.

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area.

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the city.

If not replaced within sixty (60) days the city may replace said screening and require payment upon demand.

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is

prohibited; this shall include temporary use for the storage of junk pending disposition.

13-307. Non-conforming junkyards. Those junkyards within the city and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:

(1) The junkyard must continue to be lawfully maintained.

(2) There must be existing property rights in the junk or junkyard.

(3) Abandoned junkyards shall no longer be lawful.

(4) The location of the junkyard may not be changed for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.

(5) The junkyard may not be extended or enlarged.

13-308. Permits and fees. It shall be unlawful for any junkyard located within the city to operate without a "Junkyard Control Permit" issued by the city.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's fiscal year begins on July 1 and ends on June 30 the year next following.

(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars ($50.00) which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the city.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued.

13-309. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

13-401. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including,

but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

13-402. <u>Violations a civil offense</u>. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle.

13-403. <u>Exceptions</u>. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property

maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city.

13-404. Enforcement. Pursuant to Tennessee Code Annotated § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the city judge to issue a summons; or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated § 7-63-101 et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. In addition, pursuant to Tennessee Code Annotated § 55-5-122, the municipal court may issue an order to remove vehicles from private property.

13-405. Violations and penalty. Any person violating this chapter shall be subject to a civil penalty of fifty dollars ($50.00) plus court costs for each separate violation of this chapter Each day the violation of this chapter continues shall be considered a separate violation.

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Creation of planning commission--compensation--appointment of members--term of office--vacancies--training and continuing education. (1) Pursuant to the provisions of Tennessee Code Annotated § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; one (1) of the members shall be the mayor of the municipality or a person designated by the mayor and one (1) of the members shall be a member of the chief legislative body of the municipality selected by that body. All other members shall be appointed by such mayor, except as otherwise provided for herein. In making such appointments, the mayor shall strive to ensure that the racial composition of the planning commission is at least proportionately reflective of the municipality's racial minority population. The chief legislative body may determine whether, and in what amount, to compensate members of the planning commission. Any such compensation authorized is in addition to any other compensation received from the municipality. The compensation authorized by this section does not apply to members of a planning commission who also serve as members of a board of zoning appeals. The compensation authorized by this section may not be counted against a salary limitation established by charter or otherwise. The terms of appointive members shall be of such length as may be specified by the chief legislative body; provided, that they shall be so arranged that the term of one (1) member will expire each year. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor of the municipality, who

shall also have authority to remove any appointed member at the mayor's pleasure.

(2) (a) Each planning commissioner shall, within one (1) year of initial appointment and each calendar year thereafter, attend a minimum of four (4) hours of training and continuing education in one (1) or more of the subjects listed in subsection (2)(e).

(b) Each full-time or contract professional planner or other administrative official whose duties include advising the planning commission shall, each calendar year, attend a minimum of eight (8) hours of training and continuing education in one (1) or more of the subjects listed in subsection (2)(e). A professional planner who is a member of the American Institute of Certified Planners (AICP) shall be exempt from this requirement.

(c) Each of the individuals listed in subsections (2)(a) and (b) shall certify by December 31 of each calendar year such individual's attendance by a written statement filed with the secretary of such individual's respective planning commission. Each statement shall identify the date of each program attended, its subject matter, location, sponsors, and the time spent in each program. A professional planner who is a member of the AICP shall be exempt from this requirement.

(d) The legislative body of the municipality shall be responsible for paying the training and continuing education course registration and travel expenses for each planning commissioner and full-time professional planner or other administrative official whose duties include advising the planning commission.

(e) The subjects for the training and continuing education required by subsections (2)(a) and (b) shall include, but not be limited to, the following: land use planning; zoning; flood plain management; transportation; community facilities; ethics; public utilities; wireless telecommunications facilities; parliamentary procedure; public hearing procedure; land use law; natural resources and agricultural land conservation; economic development; housing; public buildings; land subdivision; and powers and duties of the planning commission. Other topics reasonably related to the duties of planning commission members or professional planners or other administrative officials whose duties include advising the planning commission may be approved by majority vote of the planning commission prior to December 31 of the year for which credit is sought.

(f) Each local planning commission shall keep in its official public record originals of all statements and the written documentation of attendance required to comply with these provisions for three (3) years after the calendar year in which each statement and appurtenant written documentation is filed.

(g) Each planning commissioner and each professional planner or other administrative official whose duties include advising the planning commission shall be responsible for obtaining written documentation signed by a representative of the sponsor of any continuing education course for which credit is claimed, acknowledging the fact that the individual attended the program for which credit is claimed. A member of the AICP shall be exempt from this requirement.

(h) If a planning commissioner fails to complete the requisite number of hours of training and continuing education within the time allotted by this subsection (2) or fails to file the statement required by this subsection (2), then this shall constitute a cause for the removal of the planning commission member from the planning commission.

(i) The legislative body of the municipality may, at any time, opt out of the provisions of this subsection (2) by passage of an ordinance. Further any such legislative body that has opted out may, at a later date, opt in by passage of an ordinance. (Ord. #0-2010-9, Nov. 2010)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (2001 Code, § 14-102)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance. Land use within the City of Maynardville shall be governed by ordinance #144, titled "Zoning Ordinance, Maynardville, Tennessee," and any amendments thereto.[1]

14-202. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty clause of this code.

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[1]The Maynardville Zoning Ordinance (and any amendments thereto), are published as separate documents and are of record in the office of the city recorder.

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

CHAPTER 3

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

14-301. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, § 6-19-101, delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Maynardville, Tennessee, Mayor and its Legislative Body do ordain as follows:

(2) Findings of fact. (a) The City of Maynardville, Tennessee, Mayor and its Legislative Body wishes to establish eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

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

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

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

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

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

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

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

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

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

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

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

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

(d) To minimize prolonged business interruptions;

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

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

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

(h) To establish eligibility for participation in the NFIP. (Ord. #0-2009-8, July 2009)

14-302. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

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

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

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

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

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

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

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

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

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

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

(9) "Building" see "structure."

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

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer

amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

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

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

(17) "Existing structures" see "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

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

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

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

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

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

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

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights

greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

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

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

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

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

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

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

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

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

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

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

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

(48) "100-year flood" see "base flood."

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

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

(51) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

(54) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, Al-30, AE or A-99.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, Al-30, AE, A-99, or AH.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency" means the Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

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

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

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

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

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

The term does not, however, include either:

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

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

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this ordinance.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #0-2009-8, July 2009)

14-303. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Maynardville, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Maynardville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 4702100139, 4702100143, 4702100144, 4702100201, 4702100202, 4702100206 and 4702100207, dated September 25, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

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

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

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

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

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body and;

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Maynardville, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate

offense. Nothing herein contained shall prevent the City of Maynardville, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #0-2009-8, July 2009)

14-304. Administration. (1) Designation of ordinance administrator. The building official is hereby appointed as the administrator to implement the provisions of this ordinance.

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

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

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

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-305(1) and (2).

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

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under

the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

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

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

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

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

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

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

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

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

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-304(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-304(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-304(2).

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

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

(k) Establish all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be established in a separate file or marked for expedited retrieval within combined files. (Ord. #0-2009-8, July 2009)

14-305. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

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

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

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

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

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

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

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

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

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

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

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-305(2);

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

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

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-305(1), are required:

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

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to

elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "enclosures."

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

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

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

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

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

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

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

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

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-305(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels,

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

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

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

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

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-302).

(C) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-305(1) and (2).

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

(E) All recreational vehicles placed in an identified Special Flood Hazard Area must either:

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

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

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

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

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

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

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

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (See § 14-405(5).

(3) Standards for special flood hazard areas with established base flood elevations and with Floodway designated. Located within the special flood hazard areas established in § 14-303(8), are areas designated as Floodway. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the

community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Maynardville, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodway designated. Located within the special flood hazard areas established in § 14-303(2), where streams exist with base flood data provided but where no Floodway have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

(5) Standards for streams without established base flood elevations and floodway (A Zones). Located within the special flood hazard areas established in § 14-303(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain. review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-305(1) and (2).

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

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or flood proofed to a level of at least three feet (3') above the highest adjacent

grade (as defined in § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-305(2).

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

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2). Within approximate A Zones, require that those subsections of § 14-305(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are established and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' - 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-305(1) and (2):

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-305(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at

least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

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

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of § 14-304(5) shall apply.

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

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-304 and 14-305. (Ord. #0-2009-8, July 2009)

14-306. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years, respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

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

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

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

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

(A) The City of Maynardville, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.

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

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors. all standards specified in other sections of this ordinance, and:

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

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

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

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

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

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

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

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

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

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

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

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-304(1).

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

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

(d) The administrator shall establish the records of all appeal actions and report any variances to FEMA upon request. (Ord. #0-2009-8, July 2009)

14-304. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Maynardville, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (Ord. #0-2009-8, July 2009)

CHAPTER 4

MOBILE HOME PARKS

SECTION

14-401. Definitions. (1) "Health officer." The director of the city, county or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

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

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

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

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

(3) "Mobile home park (trailer court)." The term mobile home park shall mean any plot of ground on which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located.

(4) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(5) "Permit (license)." The permit required for trailer parks and single mobile homes. Fees charged under the license requirement are for inspection and the administration of this chapter.

14-402. Location of mobile homes. It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the city where the mobile home is outside of any designated and licensed mobile home park after December 31, 2007. The use of a single wide mobile home other than as a residential dwelling in a licensed and approved mobile home park is prohibited.

14-403. Compliance with construction standards required. No mobile home shall be used, placed, stored or serviced by utilities within any mobile home park in the city unless it displays the appropriate decal(s) evidencing compliance with the applicable construction standards pursuant to the "Uniform Standards Code for Manufactured Homes," Tennessee Code Annotated, title 68, chapter 126, is built to the Manufactured Home Construction and Safety Standards (HUD Code) and displays a red certification label on the exterior of each transportable section.

14-404. Installation requirements. Mobile home installations shall comply with the "Tennessee Manufactured Home Installation Act," Tennessee Code Annotated, § 68-126-401, et seq.

14-405 Permit for mobile home park. No place or site within the city shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless he holds a valid permit issued by the city building inspector in the names of such person or persons for the specific mobile home park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

14-406. Inspections by city building inspector. The city building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the

general public. The city building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

14-407. Location and planning. A mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the city planning commission and city building inspector. The city planning commission and building inspector may promulgate regulations for mobile home park location and plan approval, which shall provide for adequate space, lighting, drainage, sanitary facilities, safety features, and service buildings as may be necessary to protect the public health, prevent nuisances, and provide for the convenience and welfare of the mobile home park occupants.

14-408. Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than two (2) acres. The tract of land shall consist of a single plat so dimensioned and related as to facilitate efficient design and management.

14-409. Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is ten (10).

14-410. Minimum mobile homes space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen feet (15') of open space between mobile homes or any attachment such as a garage or porch[1], and at least ten feet (10') end to end spacing between trailers and any building or structure, twenty feet (20') between any trailer and property line and twenty-five feet (25') from the right-of-way of any public street or highway.

The individual plot sizes for mobile home spaces shall be determined as follows:

(1) Minimum lot area of two thousand four hundred (2,400) square feet;

(2) Minimum depth with end parking of an automobile shall be equal to the length of the mobile home plus thirty feet (30');

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[1]If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile homes spaces shall be made wider to accommodate such construction in order to maintain the required fifteen feet (15') of open space.

(3) Minimum depth with side or street parking shall be equal to the length of mobile home plus fifteen feet (15'); and

(4) In no case shall the minimum width be less than forty feet (40') and the minimum depth less than sixty feet (60').

14-411. Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the county health officer. In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the trailer court operator to provide such treatment as is deemed necessary to maintain a safe, potable water supply. Water shall be furnished at the minimum rate of one hundred twenty-five (125) gallons per day per mobile home space. An additional water service connection shall be provided for each mobile home space, with meter for each individual trailer.

14-412. Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer. Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and sub-surface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home a such single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate must be determined according to the "Percolation Test Procedures" in the Official Compilation of the Rules and Regulations of the State of Tennessee, which may be found online at http://state.tn.us/sos/rules/1200/1200-01/1200-01-06.pdf. No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

All sewer lines shall be laid in trenches separated at least ten feet (10') horizontally from any drinking water supply line.

14-413. Refuse. The storage, collection and disposal of refuse, in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least once per week.

14-414. Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the currently adopted electrical code, and shall satisfy all requirements of the local electric service organization.

14-415. Streets. Widths of various streets within mobile home parks shall be:

One-way, with no on-street parking	11 ft.
One-way, with parallel parking on one side only	18 ft.
One-way, with parallel parking on both side	26 ft.
Two-way, with no on-street parking	20 ft.
Two-way, with parallel parking on one side only	28 ft.
Two-way, with parallel parking on both sides	36 ft.

Streets shall have a compacted gravel base and a prime seal treatment to meet requirement of the Tennessee State Highway Department.

14-416. Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each four (4) lots to provide for guest parking, for two (2) car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home space. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten feet (10') and a length of not less than twenty feet (20'). The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

14-417. Buffer strip. An evergreen buffer strip shall be planted along those boundaries of the mobile home court that are adjacent to development.

14-418. License for mobile home parks. It shall be unlawful for any person or persons to maintain or operate within the corporate limits of the city,

a mobile home park unless such person or persons shall first obtain a license therefor.

14-419. License for individual mobile homes. It shall be unlawful for any person to maintain an individual mobile home as a dwelling unless a license has been obtained therefor. It shall be the responsibility of the owner of the mobile home to secure the license.

14-420. License fees for mobile home parks. The annual license fee for mobile home parks shall be twenty-five dollars ($25.00).

14-421. License fees for individual mobile homes. The annual license fee for each mobile home shall be ten dollars ($10.00). The fee for transfer of the license because of change of ownership or occupancy shall be five dollars ($5.00).

14-422. Application for license. (1) Mobile home parks. Application for a mobile home park shall be filed with and issued by the city building inspector subject to the planning commission's approval of the mobile home park plan. Application shall be in writing and signed by the applicant and shall be accompanied with a plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

(a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred feet (100') to one inch (1");

(b) Name and address of owner of record;

(c) Proposed name of park;

(d) North point and graphic scale and date;

(e) Vicinity map showing location and acreage of mobile home park;

(f) Exact boundary lines of the tract by bearing and distance;

(g) Names of owners of record of adjoining land;

(h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;

(i) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;

(j) Provisions for water supply, sewerage and drainage;

(k) Such information as may be required by the city to enable it to determine if the proposed park will comply with legal requirements; and

(l) The applications and all accompanying plans and specifications shall be filed in triplicate.

(2) Individual mobile homes. Application for individual mobile home licenses shall be filed with and issued by the city building inspector. Applications shall be in writing and signed by the applicant. The application shall contain the following:

(a) The name of the applicant and all people who are to reside in the mobile home;

(b) The location and description of the mobile home, make, model, and year;

(c) The state license number;

(d) Further information as may be required by the city to enable it to determine if the mobile home and site will comply with legal requirements; and

(e) The application shall be filed in triplicate.

14-423. Enforcement. It shall be the duty of the county health officer and city building inspector to enforce provisions of this chapter.

14-424. Board of appeals. The planning commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, may appeal for and receive a hearing by the planning commission for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of this chapter, the planning commission may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision or determination made by the building inspector.

14-425. Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the planning commission may seek review by a court of record of such decision in the manner provided by the laws of the State of Tennessee.

14-426. Violation and penalty. Any person or corporation who violates the provisions of the chapter or the rules and regulations adopted pursuant thereto, or fails to perform the reasonable requirements specified by the city building inspector or county health officer after receipt of thirty (30) days written notice of such requirements, shall be subject to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER
1. IN GENERAL.

CHAPTER 1

IN GENERAL

SECTION
15-101. Adoption of state traffic statutes.
15-102. Schedule of fines, costs and related fees.
15-103. Establishment of speed limits.

15-101. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated§ 16-18-302, the City of Maynardville adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated §§ 55-8-101 through 55-8-131, §§ 55-8-133 through 55-8-150, and §§ 55-8-152 through 55-8-180. Additionally, the City of Maynardville adopts Tennessee Code Annotated §§ 55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606, 55-12-139, 55-21-108, and 55-4-101 by reference as if fully set forth in this section.

15-102. Schedule of fines, costs and related fees. (1) The below schedule of fines, costs and related fees as regards the respective traffic offenses set forth below, and the violation of city ordinances which are also set forth below, and which are to be heard in the Maynardville City Court, are hereby established and adopted by the City of Maynardville as follows:

Traffic Offenses	Fines	Cost	Litigation Tax/Cash Bond Fee	Municipal Training	Total
Speeding	$10.50	$131.50	$13.75	$1.00	$156.75
Failure to yield	$10.50	$131.50	$13.75	$1.00	$156.75
Improper passing	$10.50	$131.50	$13.75	$1.00	$156.75

[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

Traffic Offenses	Fines	Cost	Litigation Tax/Cash Bond Fee	Municipal Training	Total
Following too close	$10.50	$131.50	$13.75	$1.00	$156.75
Traffic control device	$10.50	$131.50	$13.75	$1.00	$156.75
Light law	$10.50	$131.50	$13.75	$1.00	$156.75
Registration violation	$15.00	$131.50	$13.75	$1.00	$161.75
Seatbelt (adult)	$10.00	$0.00	$0.00	$0.00	$10.00
Seatbelt (child restraint)	$50.00	$0.00	$0.00	$0.00	$50.00
Financial responsibility	$50.00	$0.00	$13.75	$1.00	$64.75
Seatbelt (16 & 17 yrs of age)	$20.00	$0.00	$0.00	$0.00	$20.00
Violation of Maynardville city ordinances	$10.50	$131.50	$13.75	$1.00	$156.75

(2) The above listed fines, cost and related fees as regards the respective traffic offenses and violation of Maynardville city ordinances set forth above shall be collected in those respective amounts as set forth above and shall also be collected in the same amounts as set forth above as regards any cash bond paid into and later forfeited to the court. (Ord. #0-2011-7, Sept. 2011)

15-103. <u>Establishment of speed limits</u>. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street within the city limits of Maynardville, Tennessee at a rate of speed in excess of twenty (20) miles per hour except where official signs have been posted indicating other speed limits, in which case the posted speed limit shall apply. Streets shall include, but are not limited to, streets located within subdivisions and industrial parks located within the city limits of Maynardville, Tennessee. (as added by Ord. #O-2021-4, April 2021 ***Ch1_01-10-23***)

TITLE 16

STREETS AND SIDEWALKS, ETC.[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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. (2001 Code, § 16-101)

16-102. Trees, etc. 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, alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8').

It shall be unlawful where hedges are growing or in existence to allow such hedges to grow at a height in excess of three and one-half feet (3 1/2') from ground level where such hedges are within ten feet (10') of a public sidewalk, or

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

permit hedges to grow and extend themselves over, into or on public sidewalks or streets in the city. (2001 Code, § 16-102, modified)

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, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (2001 Code, § 16-103)

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.[1] (2001 Code, § 16-104)

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 city manager after a finding that no hazard will be created by such banner or sign. (2001 Code, § 16-105, modified)

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 law. (2001 Code, § 16-106)

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. (2001 Code, § 16-107)

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. (2001 Code, § 16-108)

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

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[1]Municipal code reference
Building code: title 12, chapter 1.

remove all accumulated snow and ice from the abutting sidewalk. (2001 Code, § 16-109)

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city manager. No permit shall be issued by the manager 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 clean up the resulting litter immediately. (2001 Code, § 16-110)

16-111. 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 knowingly to allow any minor under his control to violate this section. (2001 Code, § 16-111)

16-112. 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. (2001 Code, § 16-112)

16-113. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty clause of this code.

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts, 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 recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (2001 Code, § 16-201, modified)

16-202. Applications. Applications for such permits shall be made to the city manager, 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

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[1]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).

laws relating to the work to be done. Such application shall be rejected or approved by the city manager within twenty-four (24) hours of its filing. (2001 Code, § 16-202)

16-203. Fee. The fee for such permits shall be twenty-five dollars ($25.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents ($.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. (2001 Code, § 16-203, modified)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the city manager a cash deposit. The deposit shall be in the sum of five hundred dollars ($500.00) if no pavement is involved or one thousand dollars ($1,000.00) if the excavation is in a paved area 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 city manager may increase the amount of the deposit to an amount considered by him to be adequate to cover the 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.

In lieu of a deposit the applicant may deposit with the city manager a surety bond in such form and amount as the manager shall deem adequate to cover the costs to the municipality if the applicant fails to make proper restoration. (2001 Code, § 16-204, modified)

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. (2001 Code, § 16-205, modified)

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 the street, alley, or public place to its original condition except for the surfacing, which shall be done by the city, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in

restoring the street, alley, or public place, the city manager 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. (2001 Code, § 16-206, modified)

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 city manager in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars ($300,000.00) for each person and seven hundred thousand dollars ($700,000.00) for each accident, and for property damages not less than one hundred thousand dollars ($100,000.00) for any one (1) accident. (2001 Code, § 16-207, modified)

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 city manager. (2001 Code, § 16-208)

16-209. **Supervision**. The city manager or his designee 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 city 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. (2001 Code, § 16-209, modified)

16-210. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty clause of this code.

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER
1. REFUSE.

CHAPTER 1

REFUSE

SECTION
17-101. Refuse defined.
17-102. Premises to be kept clean.
17-103. Storage.
17-104. Location of containers.
17-105. Disturbing containers.
17-106. Collection.
17-107. Collection vehicles.
17-108. Disposal.
17-109. Violations and penalty.

17-101. Refuse defined. Refuse shall mean and include garbage, and rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (2001 Code, § 17-101)

17-102. Premises to be kept clean. All persons within the municipality are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (2001 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this municipality where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. (2001 Code, § 17-103, modified)

17-104. Location of containers. Where alleys are used by the refuse collectors, containers shall be placed on or within six (6) feet of the alley line in

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[1]Municipal code reference
Property maintenance regulations: title 13.

such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (2001 Code, § 17-104)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (2001 Code, § 14-105)

17-106. Collection. Each property owner and resident shall be responsible for seeing that all refuse is collected from his premises and disposed of in a lawful manner at least weekly. (2001 Code, § 17-106)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (2001 Code, § 17-107)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the governing body is expressly prohibited. (2001 Code, § 17-108)

17-109. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty clause of this code.

TITLE 18

WATER AND SEWERS[1]

CHAPTER

CHAPTER 1

WATER

SECTION

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[1]Municipal code references
Building, utility and residential codes: title 12.
Refuse disposal: title 17.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for the receiving of water service from the city and shall apply to all service rendered by the city whether the providing of such service is based upon contract, agreement, signed application, or otherwise. (Ord. #0-2005-10, Dec. 2005)

18-102. Definitions. (1) In these rules and regulations, and any supplement thereto, the definitions given below shall apply:

(a) "Business unit" shall mean any structure or portion thereof occupied by a single business or enterprise. Shopping centers or other

structures occupied by any one (1) business or enterprise shall be considered multi-business units.

(b) "City" means the City of Maynardville.

(c) "City manager" shall mean the city manager of the city or the designated representative thereof. The city manager, acting personally or through his designated representative, shall administer, implement, and enforce the provisions of these rules and regulations.

(d) "Commissioners" means the mayor and all commissioners of the city, but does not include any employees.

(e) "Contribution in aid of construction" is any payment mode to the city by a person interested in making new or additional water service from the city available to any premises, which payment is made to compensate the city at least in part for the capital costs then to be incurred and theretofore incurred by the city for facilities that are or will be used at least in part in providing such desired new or additional water service.

(f) "Customer" means any person who receives water service from the city, under either an express or implied contract requiring such person to pay the city for such service; and shall include any person upon whose property there is located a customer-owned water service line, even though such service line is not in active use.

(g) "Customer service line" or "service line" shall designate the water line extending from the service connection to and within the improvements on such property.

(h) "Day" whenever used with reference to a period which water is measured means a period of twenty-four (24) consecutive hours beginning as near as practical to 8:00 A.M. prevailing time and the date of any such day shall be the date of the calendar day on which said twenty-four (24) hour period begins.

(i) "Due date" shall mean the date fifteen (15) days after the date of a bill, except when some other date is expressly required by these rules, regulations and rate schedules, or by an agreement approved by the city. The due date is the last date upon which water bills can be paid by the net rates.

(j) "Dwelling" or "dwelling unit" shall mean any structure or portion thereof occupied by one (1) or more persons or households for residential purposes. Apartment buildings and other structures occupied by more than one (1) family shall be considered multi-family dwelling units.

(k) "Fire protection service charges" means the charges made for fire protection provided by the fire hydrants owned and maintained on an unmetered basis by the city for the use of firms, corporations or individuals.

(l) "Household" means any one (1) or more persons, living together as a family group.

(m) "Penalty date" shall mean the date which appears on the bill, except when some other date is expressly required by these rules and regulations or rate schedules, or by an agreement approved by the city. The discount rate is the last date on which bills can be paid at net rates.

(n) "Person" includes firms, corporations, partnerships, organizations, associations, all other business entities, governmental entities and natural persons.

(o) "Point of delivery" unless otherwise provided by an easement or other written agreement between the city and the customer or other owner of the service line to which the water service main is connected, shall be the location at which the water service main reaches the boundary line between the easement or public right of way in which the water service main is located, and the adjacent private property. However, where an outside meter and meter well on such water service main are located within five feet (5') of such boundary line on either side thereof; the point of delivery shall be where the outlet pipe leaves the outlet side of the meter.

(p) "Premises" means any structure of group of structures operated as a single business or enterprise, provided, however, the term "premises" shall not include more than one (1) dwelling.

(q) "Regular billing period" or the "billing period" for any designated calendar month means the billing period from which the revenues are included in monthly financial and operating statements for the calendar month in question.

(r) "Rules and regulations" means addenda, attachments, supplements and interpretations adopted from time to time by the commissioners.

(s) "Service connection" shall mean the tap of the main and that portion of the line extending from the tap of the main to and including the meter and the meter installation in those installations where the meter is set at or near the property line on the street, highway or right of way in which the main is located. For meters located elsewhere on private property, the "service connection" is considered to extend from only the tap of the main to the property line, plus the meter and meter installation.

(t) "Service line" shall mean and include any pipe, line or related facility beyond the point of delivery, excluding meters, meter boxes, cut off valves and meter connections. Service lines shall be the responsibility of the customer(s).

(u) "Tapping fee" shall designate any charge made by the city to users or prospective users for the tap of the main and the installation of the service connection, including the meter, meter installation and the

meter box. The customer acquires no legal title to or equity in the facilities installed by reason of the payment thereof. A tapping or tap fee will be required of every customer without regard to whether the tap is made by the city or the owner or in the case of any development of the developer.

(v) "Water division" or "division" shall mean the part of the city system having charge of water system operations.

(w) "Water distribution main" is a water main that provides water service to, or is designed to provide water service to, more than one (1) service line, and that ordinarily is located in and extends longitudinally along a public street, road, similar public right of way, or easement.

(x) "Water main" shall mean any pipe line or related facility up to and including a point of delivery, and shall not include any pipe line located on private property except in instances in which the city has been granted easement rights.

(y) "Water service main" is the pipe and appurtenant facilities between a water distribution main and the point of delivery for the service line to which the water service main is connected.

(2) Wherever the context shall admit or require, words used herein in the singular shall include the plural, words used in the plural shall include the singular, words used in the masculine shall include the feminine, and words used in the feminine shall include the masculine. (Ord. #0-2005-10, Dec. 2005)

18-103. <u>Obtaining service</u>. Persons wishing to obtain water service shall make written application for either initial or additional water service at the office of the city manager or with a duly appointed employee of the city. The application must be duly approved by the city manager or the city manager's designee for service connection and meter installation before job orders will be issued and the construction or installation work performed. (Ord. #0-2005-10, Dec. 2005)

18-104. <u>Application and contract for service</u>. (1) Each prospective customer desiring water service shall be required to sign the city's standard form of contract before service is supplied. The use of water service by a customer shall impliedly bind the customer by the terms of the applicable standard contract form, even though not actually signed. The contract will apply to any other location within the city or the city's service area when a customer moves. Customers requiring the installation of special equipment by the city may be required to sign a contract guaranteeing a minimum charge for such period of time as may be agreed upon between the city and the customer. If, for any reason, the applicant, after signing the contract for water services, does not take the service by reason of occupying the premises or otherwise, the applicant

shall reimburse the city for the expense incurred by reason of its effort to furnish such service.

(2) The receipt by the city of a prospective customer's application for service, regardless of whether or nor accompanied by a deposit, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with the city's rules, regulations and general practices, the liability of the city to the applicant for such service shall be limited to the return of any deposit or charges paid to the city by such applicant.

(3) Whenever an application is made for service to premises concerning which the city knows there is a dispute as to the ownership or right of occupancy, and one (1) or more of the claimants attempts to prevent such service from being furnished, the city reserves the right to adopt either one (1) of the following two (2) alternative courses.

(a) To treat the applicant in actual possession of the premises to be served as being entitled to such service, irrespective of the rights or claims of other persons; or

(b) To withhold service pending a judicial or other settlement of the rights of the various claimants. (Ord. #0-2005-10, Dec. 2005)

18-105. Deposit. (1) The customer, when called upon by the city, shall deposit with it such reasonable sums of money as may be required by the city as continuing security for the performance of the obligations contracted for by the customer, and failure to make such deposit upon demand of the city will give the city the right to declare the contract forfeited and to refuse or to discontinue service.

(2) Upon termination of the service, the deposit may be applied by the city against any obligations of the customer, to the city, regardless of whether such obligations arose in connection with water service or otherwise. Any part of the deposit which is not so applied will be refunded to the customer upon demand.

(3) No deposit shall be transferable or assignable by customer.

(4) Each applicant for water and/or sewer service, when called upon by the city, shall as a condition of service by the city deposit with the city a security deposit to secure the payment of water and sewer service charges in such an amount as specified by the city in accord with the city's schedule of rates and charges. Security deposits will be returned to the customer upon the discontinuation of service to the customer after deducting any amounts owed by the customer. (Ord. #0-2005-10, Dec. 2005)

18-106. Service charges for temporary service. (1) Customers requiring temporary service may be required to pay all costs as determined by the city for connection and disconnection of facilities incidental to a supplying of service in addition to the regular charge for water use. This rule applies to

circuses, carnivals, fairs, trailers, temporary construction and other applications requiring temporary service.

(2) The city may issue permits for the use of water, building or construction purposes or for other temporary purposes, provided the applicant pays for tapping the main and installing the necessary facility and complies with all other requirements of the city.

(3) The city may, in exceptional cases, issue permits for the use of unmetered water for building, construction or other temporary purposes, provided all other requirements of the city are met with the exception of the condition that the water purchased must be metered. In such exceptional cases of unmetered water service, the water so used must be discharged from a hose or pipe directly into water pipes or beds and under no circumstances shall it be discharged above the ground or into or through a ditch or trench or into the gutter. The cases of such temporary connection, the hose connection through which the water is taken must be properly protected and in no case shall the city's properties be used for controlling the flow of the water. (Ord. #0-2005-10, Dec. 2005)

18-107. Tapping main and making connections. (1) Water service mains will be installed by the city from the water distribution main to the customer's point of delivery. The location of such water mains will be determined by the city.

(2) Before a new or larger water service will be installed by the city, the applicant shall pay a contribution in aid of construction whenever required under these rules and regulations.

The contributions in aid of construction for water service mains in cases in which any or all work is performed by the city shall be as provided in the development agreement entered into between the city and the developer.

(3) The charges for service connections in developments where the service tap has already been provided for by the developer but where no water meter or meter well has been installed shall be as specified in § 18-501, schedule of rates and charges.

(4) In order to adjust the schedule of contributions in aid of construction as the costs of water service mains change from time to time, it shall be the duty of the city manager after consulting with the city's engineer in January (or as soon thereafter as these computations can reasonably be made) of each year to compute the average cost for the preceding calendar year for each pipe size of water service mains for which pipe size at least six (6) such water service mains were completed during such preceding calendar year, as determined from the plant cost records maintained by the city. The city manager shall make a written report of such determinations for each of the pipe sizes listed above to the board of commissioners; and when such written report has been approved by the board of commissioners and filed with the city recorder, the amounts shown thereon shall thereafter be used for all contributions in aid

of construction paid after the date of such filing or after January 31st of the year in which filed, whichever date is the latter; and such adjusted contributions in aid of construction shall continue to be used thereafter until the amounts thereof are again adjusted by this same procedure in a succeeding calendar year.

(5) The city shall be responsible for the maintenance and upkeep of water mains to the point of delivery. In addition, the city shall be responsible for the maintenance and upkeep of meters, meter boxes, cut-off valves and meter connections, with access thereto being required as provided in § 18-113. The service line and all other facilities (except meters, meter wells, meter boxes, cut-off valves and meter connections) beyond the point of delivery (even though such remaining portion is not located within the customer's property) shall be the responsibility of the customer. Notwithstanding anything elsewhere herein provided, the city shall not be responsible for the maintenance and upkeep of any part of a service line.

(6) Water service shall not be furnished to more than one (1) customer through a single service line unless it is clearly in the best interest of the city to provide such service in that manner. Before water service shall be furnished to two (2) or more customers through one (1) service line, the city manager shall give his written approval of such service. In such written approval, the city manager shall state why furnishing such service is clearly in the best interest of the city. In the event that a service line provides service to more than one (1) customer, the city may require that each customer served by such service line acknowledge, in a manner satisfactory to the city:

(a) That the city is not responsible for the maintenance of such service line; and

(b) That such customer is responsible for providing and maintaining such service line as provided in § 18-108. The omission of the city to obtain any such acknowledgment shall neither add to the city's responsibility nor reduce the customer's responsibility for the maintenance of such service line. (Ord. #0-2005-10, Dec. 2005)

18-108. <u>Water extensions--general extension policy</u>. (1) The city may extend its service in developed areas pursuant to § 18-109 and to new developments pursuant to § 18-110. The investment the city will make, if any, toward an extension of the water system will be equitably determined on the basis of economic feasibility. In making such determination, the city shall consider the total capital cost, the anticipated revenues, the estimated expenses associated with the extension and such other economic factors as the city manager may deem appropriate under the circumstances. Costs for extensions in excess of the investment of the city shall be paid by customers associated with such extensions and will constitute a contribution in aid of construction.

(2) Prior to extending any water line, the city may require the customer to execute an extension agreement which requires and/or provides for customer assurances with respect to the extension, including, but not limited to,

refundable construction advances, minimum volume or bill requirements and such other forms of security, assurance, and/or guarantee, as the city determines to be necessary or appropriate to protect the interest of the city and its customers.

(3) Extension of a larger water main to property already served by a smaller main, when made at the request of a customer or customers, and not initiated by the city as an improvement to the water distribution system, shall be treated as an original water main extension.

(4) The city shall have the authority to extend the water system other than in accordance with the policies set forth herein when any such extension is determined to be in the best interest of the city or to the benefit of the public health of the community.

(5) The authority to make water extensions pursuant to this section is discretionary even though all requirements of this section have been met. Nothing contained herein shall be construed as requiring the city to extend water service to any property.

(6) No water and sewer lines shall be extended without the prior approval of plans from the appropriate state agency and the board of commissioners.

(7) All water lines shall be six inches (6") or greater on all extensions, unless granted a variance by a majority vote of the board at a regular or special called meeting. (Ord. #0-2005-10, Dec. 2005, modified)

18-109. Main extensions to developed areas. (1) The provisions of this section shall apply only to water main extensions necessary to provide water service to existing improvements. This section shall not be applicable to land development projects, subdivisions, or any other undeveloped lots or parcels.

(2) Unless otherwise provided for in an extension agreement, the owner or occupant of the property to be served by extensions of a water main under this section shall pay any required contribution in aid of construction, as determined pursuant to § 18-108 above upon the execution of the extension agreement. (Ord. #0-2005-10, Dec. 2005)

18-110. New developments. (1) The provisions of this section shall apply to all areas to which § 18-109 is not applicable, including all land development projects and subdivisions.

(2) Persons desiring water main extensions pursuant to this section must pay, at a minimum, a contribution in aid of construction equal to the cost of providing water mains within the subdivision or land development project. In addition, such persons may be required to make an additional contribution in aid of construction toward the cost of connecting the mains from the subdivision or land development project to the city's existing system. Such additional

contribution shall be determined on the economic feasibility basis described in § 18-108 above.

(3) All mains and other water facilities shall be constructed either by the city forces or by persons authorized under § 18-111 below. For work performed by the city, the applicant shall pay in advance of construction the estimated cost of the extension as determined by the city. (Ord. #0-2005-10, Dec. 2005)

18-111. Work performed by persons other than the utilities department. (4) Notwithstanding anything contained herein to the contrary, where provision is made for water mains or other water facilities to be constructed by the city at the expense of the customer or any person other than the city, the city manager may allow such construction work to be done by a contractor or other person acceptable to the city.

(5) The city may reduce any required contribution in aid of construction, up to the total required contribution for work performed, in accordance with this section.

(6) The size, type, and installation of water mains or other facilities pursuant to this section shall comply with the city's standard specifications, and must be approved by the city.

(7) All construction work shall at all times be subject to inspection by the city to assure that the work conforms to the specifications of the city.

(8) No approval or inspection by the city hereunder shall relieve the customer or his contractor of any liability to the city or third parties for the work performed by the customer or his contractor.

(9) Upon the completion of main extensions or other water facilities and their approval by the city, such facilities shall become the property of the city, and the persons paying the cost of constructing such facilities shall execute any written instrument requested by the city to provide evidence of the city's title to such facilities. In consideration of such facilities being transferred to the city, the city shall incorporate such facilities as an integral part of the city's water system and shall provide water services therefrom for the reasonable life of such facilities, in accordance with the rules, regulations and rate schedules of the city. (Ord. #0-2005-10, Dec. 2005)

18-112. Easement rights and relocation of city's facilities. (1) In cases where the needs of one (1) or more customers are such as to make desirable the location of the city water mains, and appurtenant facilities on the customer's property or other private property in order to provide service to such customer(s), the customer(s) shall provide adequate easement rights as required by the city for the city's facilities. The city shall not install such water mains and facilities and no applicant for service shall be entitled to such service until the city has been furnished at no cost to the city such indefeasible easement rights for such water mains and facilities at a location acceptable to the city. All

persons having any interest in the property where such water mains and facilities of the city are located shall be conclusively presumed to have agreed to the construction and continued maintenance of such water mains and facilities if at any time after the use thereof begins, a continuous period of six (6) months elapses during which no effort is made by the customer or by any person having an interest in such property, to have such water mains and facilities removed or relocated.

(2) Any person wishing to have the city's water mains or facilities relocated for his convenience shall be entitled to have such water mains or facilities relocated only if

(a) An easement for a suitable substitute location acceptable to the city is provided at no cost to the city; and

(b) Satisfactory arrangements are made with the city for all expenses for any relocation work to be paid at no cost to the city.

Until arrangements acceptable to the city are made for providing water service to the premises served by such water mains or facilities, no person shall have the right to require the city to remove any such water mains or facilities even though the facilities are not in active use at the time. Neither the customer nor any other person shall do anything on the property where such water main and facilities are located, or allow any use thereof, which will endanger said water main and facilities or which will create a hazard by reason of the location or use of such water mains and facilities, or which will materially interfere with access thereto for the repair, maintenance and use thereof.

(3) Any customer whose premises do not extend to a public street right-of-way or other public right-of-way from which water service can be safely and economically provided, shall be responsible for providing and maintaining without cost to the city an easement for the city's water facilities between the customer's premises and the public right-of-way from which such water service is to be or is being provided. Such customer shall also be responsible for providing and maintaining all water facilities beyond such customer's point of delivery, which facilities are not owned by the board. This rule applies to all customers, present and future, including without limitation, those occupying apartments, office buildings, condominiums, shopping centers, parks, projects, developments, subdivisions, and other similar land uses. (Ord. #0-2005-10, Dec. 2005)

18-113. Meters. (1) All meters shall be installed, tested, repaired and removed by the city.

(2) City approval of meter locations shall be obtained prior to the installation of any service lines. The customer shall cause to be provided a suitable location, satisfactory to the city for all metering equipment. The city shall have ready access at all times to such meter locations, whether inside or outside of buildings, for readings, inspection, repair, replacement and removal.

The city reserves the right to move a meter at its own expense to a location which it deems to be more accessible or desirable.

(3) All meters used for billing purposes by the city are the property of the city as shall the meter installation and meter boxes which the city meters are located, even though the customer may have made a contribution in aid of construction as a condition of obtaining service.

(4) No one shall do anything that will in any way interfere with or prevent the proper registration of a meter. No one shall perform work on a water meter without the written permission of the city. No one shall install any pipe or other service which will cause the water to pass through a meter or service or supply line without such water being fully recorded by the meter. No person shall use any device or mechanism to bypass a meter or which causes water usage to occur without being recorded or metered.

(5) Each customer will be supplied through a separate meter unless a meter installation is installed under the city's multiple service policy.

(6) Meters and meter installations must be accessible at all times and shall not be covered with rubbish and/or other material or shrubbery of any kind. No fence shall be built between the meter and the right of way. No one other than an authorized agent of the city shall be permitted to install, repair, adjust, remove or replace any meter or any part thereof.

(7) The customer shall be responsible for damage to the meter and meter installation to which he is served if such damage is caused by carelessness or negligence of the customer or his agent of employees or any members of his family. Such customer shall be billed for actual costs of the repair or replacements, and such bills shall be paid within ten (10) days from the date of the mailing thereof. Failure to pay for damages to a meter or meter installation as outlined above within a reasonable time may be taken as grounds for disconnecting water service by the city.

(8) The city may discontinue furnishing water to the customer who refuses permission for the city to remove the meter from his premises. (Ord. #0-2005-10, Dec. 2005)

18-114. <u>Meter test</u>. (1) The city will, at its own expense, make routine periodic tests and inspections of its meters when the city considers such tests desirable.

(2) When a customer requests an additional meter test, within a period of twenty-four (24) months after the previous test by the city which showed the meter to be accurate, the customer shall pay for such test, if the tests show the meter does not register more than two percent (2%) fast or two percent (2%) slow. In case the test shows the meter to register in excess of two percent (2%) fast or slow, appropriate adjustments will be made by the city. The charges to the customer for meter tests under this section shall be the prevailing rate established by the commissioners.

(3) In testing meters, the water passing through a meter will be weighted or measured at various weights of discharge, and under varying pressures. To be considered accurate, the meter registration shall check with the weighted or measured amounts of water within the percentages shown in the following table:

Meter size	Percentage
5/8" 3/4" 1" 2"	2%
3"	3%
4"	4%
6"	5%

(4) The municipality shall also make test or inspections of its meters at the request of the customer. However, if a test requested by a customer shows the meter to be accurate within the limit stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

Meter size	Test charge
5/8" 3/4" 1"	$5.00
1 1/2" 2"	$5.00
3"	$18.00
4"	$22.00
6" and over	$30.00

(5) If such test shows the meter not to be accurate within such limits, the cost of such meter test shall be born by the city.

(6) These charges do not apply to inspection of meters and meter installations. The checking and verifications of meter readings, etc. made at the customer's request are carried out while the meters are being maintained at normal service. (Ord. #0-2005-10, Dec. 2005)

18-115. Meter location. (1) For new installations, the city approval of meter locations shall be obtained before any piping is installed. Meters shall be

placed on or adjacent to the property line of the premises to be serviced at the street in which the main lies in which service is to be given.

Insofar as practical, such locations shall be chosen for the joint convenience of the customer and the city, but the city reserves the right to specify the location of the meters.

(2) Where more than one (1) meter is to be installed at one (1) premise, separate meters shall be grouped in one (1) common place and be accessible at all times.

(3) Where meters are at present located on private property, it shall be the policy of the city to move at its expense the meters to locations on public property or at the property line, as speedily as practical. Costs of relocation of any service lines shall be borne by the customer.

(4) The cost of relocating meters for the sole convenience of the customer shall be paid by the customer. (Ord. #0-2005-10, Dec. 2005)

18-116. Multiple services through a single meter. (1) No customer shall supply water service for more than one (1) dwelling unit or business unit from a single service line and meter without first obtaining the written permission of the city.

(2) Where the city allows more than one (1) dwelling unit or business unit to be served through a single service line and meter, the amount of water used by all the dwelling units and business units served through a single service line and meter shall be allocated to each separate dwelling unit or business unit thus served by providing the amount of water used by the number of dwelling units and business units served. The water charged for each such dwelling unit or business unit thus served shall be computed just as if each such dwelling unit or business unit has received through a separately metered service the amount of water so allocated to it. Such computation to be made at the city's applicable water rates including the provisions as to minimum bills. The separate charges for each dwelling unit or business unit served through a single service line and meter shall then be added together and the sum thereof shall be billed to the customer in whose name the service is supplied. (Ord. #0-2005-10, Dec. 2005)

18-117. Point of delivery. Except as may otherwise be provided by written agreement by the city and customer, the point of delivery shall be as defined in § 18-102(1)(o). All piping and equipment between this point and the point or points where the water is used shall be the property of and be maintained by the customer. The city shall not be liable for injury to persons or property on account of defect or negligence in the installation, maintenance or use of any piping beyond the point of delivery. (Ord. #0-2005-10, Dec. 2005)

18-118. Main extensions. (1) All water line extensions made within the city or its service area shall conform to the specifications of the city, the design criteria for community public water systems established by the Tennessee

Department of Environment and Conservation and shall be approved by the Tennessee Department of Environment and Conservation.

(2) All water line extensions shall be at least six inches (6") in size and be paid for by the developer unless otherwise approved by the city. Any exception to the six inch (6") water line size standard must be approved by the city and such approval shall be based upon certain objective factors which include, but are not necessarily limited to, the number of potential customers, the volume of water usage anticipated to be used by the potential customers, the amount of available water pressure and water volume as based upon hydraulic analysis and economic analysis. The reasons for any exception to the six (6) inch line standard shall be reflected in the minutes of the meeting of the board of commissioners at which the approval of the exception is granted.

(3) All plans for use of the business and line extensions must be submitted to the city for engineering review and approval. Charges for said review are stated in the scheduled rates and charges.

(4) Line extensions must be inspected by the city and bacterial and pressure tests run before the city will accept the extension into the system.

(5) The city shall not construct any water or sewer project for a private purpose except as provided by general state law.

(6) All main extensions for private projects shall be constructed in accord with a development agreement to be entered into between the city and the developer. (Ord. #0-2005-10, Dec. 2005)

18-119. **Standard service**. Water service is normally limited to qualities as determined by the physical limitation of the city's water distribution and storage systems and no specific quantities or rates of flow can be guaranteed. The quality of water will be determined by the city's source of supply and treatment facilities and chemical characteristics of such water shall be those resulting from the treatment of the water obtained from the source of supply as used by the city for its water system. (Ord. #0-2005-10, Dec. 2005)

18-120. **Non-standard service**. (1) The city's facilities are designed for furnishing water on a gravity basis and are limited to such. In a few isolated cases, the city serves small areas through which are dependent upon continuous power supply. Customers living in the areas as high or higher than the reservoirs that feed that area must provide and maintain at their expense any equipment necessary to provide the standards of water service desired.

(2) In those cases in which the size of the city's main limits the quality of service, or might reasonably be expected to limit the quality of service in the future, and for which funds are not available to the city for improvements in the foreseeable future, the city will attempt to notify its customers, and future applicants for water service in such areas, that the service is substandard and nonstandard and that the areas that the service is substandard and nonstandard and that the city assumes no obligation for improving service until

funds are available for making improvements needed to provide a higher level or standard service. (Ord. #0-2005-10, Dec. 2005)

8-121. Tapping existing main and marking service connection.

(1) Service connections will be made by the city from the water main to the property line. Such service connections, including meter installation, will be fitted with all necessary hardware and so installed as to be readily accessible at all times to the agents of the city. The location for such service connections will be in accordance with § 18-117 above.

(2) When such service connections are completed, the city shall have ownership of and shall be responsible for the maintenance and upkeep of such service connections from the main and to and including the meter and meter installation. The remaining portion, designated as the "service line" or "customer's service line" beyond the meter and the meter installation (even though such remaining portion is not located within the customer's property line) shall belong to and be the responsibility of the customer.

(3) In all cases the "service line" shall be installed by the customer at the customer's expense and shall be and remain the exclusive property of the customer. The service line shall be of material approved by the city and shall be provided with a stop and wastecock. Water service to any customer may be discontinued and water service to any applicant supplied with a stop and wastecock. Notwithstanding anything else herein provided, the city shall not be responsible for the maintenance and upkeep of any customer's service line located within the property line of the customer, even though the city's meter and meter installation are located within said property line.

(4) Connections (taps) and connection (tap) fees. In addition to bearing all costs of installing water service lines or sewer service lines from the water main or sewer main to the point of service, every customer shall pay a connection or tapping fee provided in the city's schedule of rates and charges. (Ord. #0-2005-10, Dec. 2005)

18-122. Fire protection service. (1) Public. (a) Fire hydrant installations. Where it is feasible each residential lot will be located within five hundred feet (500') of a fire hydrant as measured along a public right of way.

(b) Water taken from fire hydrants for purposes other than fire fighting. When water is taken from fire hydrants, for any purpose other than firefighting, such as sprinkling of streets, construction purposes or other temporary uses, the hydrant from which the water is so taken must have a reducing appliance attached to the nozzle of the fire hydrant with an independent valve capable of regulating the supply. The main valve of the fire hydrant must be fully opened at the beginning of each work day and remain open until the close of work at night. The supply is to be regulated by independent valve which must be approved by the city.

When taking water from a fire hydrant for any purpose other than fire fighting, no wastage will be allowed.

(2) Private. (a) Private fire hydrants and fire lines. Private fire hydrants and fire lines will be installed at the expense of the customer and the construction will be made in accordance with specifications of the city. Such facilities shall be owned and maintained by the customer and the charges shall be in keeping with the schedule of rates and charges.

(b) Charges for sprinkler system. (i) All sprinkler systems should have a detector check. Facilities installed for providing water for automatic sprinkler systems for fire protection shall be owned and maintained by the customer and charges outlined in the schedule of rates and charges.

(ii) Multiple connections for sprinkler service to one (1) structure in service at the time of the effective date of these rules and regulations shall, for billing purposes only, be considered a single connection.

(c) Limited use of unmetered private fire lines. (i) Where private fire lines are not metered, no water shall be used from such lines or from any fire hydrant thereon except to fight fire or while being inspected in the presence of an authorized agent of the city.

(ii) All private fire hydrants shall be sealed by the city and shall be inspected at regular intervals to see that they are in proper condition and no water shall be used therefrom in violation of the city's rules and regulations. When a seal is broken on account of fire or for any other reason, the customer taking such service shall give the city written notice of such occurrence as soon as possible. (Ord. #0-2005-10, Dec. 2005)

18-123. Customer's piping and fixtures--standards. (1) All water piping beyond the meter shall be installed and maintained at the expense of the customer.

(2) By furnishing service to a customer, the city assumes no responsibility for seeing that the customer's piping and or plumbing fixtures comply with any local codes or regulations. (Ord. #0-2005-10, Dec. 2005)

18-124. Right of access. The city's properly identified employees and agents shall have access to customer's premises at all reasonable times for the purpose of reading meters, testing, and repairing or changing any or all equipment belonging to the city or testing water delivered to the customer's premises. (Ord. #0-2005-10, Dec. 2005)

18-125. Inspection. The city shall have the right, but shall not be obligated to inspect any installation before water is introduced at a later time. The city reserves the right to refuse service or discontinue service to any piping

or plumbing fixtures or from violations of any local codes or regulations or the provisions of any special contract or from accidents which may occur on the customer's premises. (Ord. #0-2005-10, Dec. 2005)

18-126. Notice of trouble. Customers shall notify the city immediately should the water service be unsatisfactory for any reason, or should there be any defects, trouble or accidents affecting the supply of water. Such notices, if verbal, should be confirmed in writing. (Ord. #0-2005-10, Dec. 2005)

18-127. Customer's responsibility for city property. All meters, service connections and other equipment furnished and maintained by the city shall be, and remain, the property of the city. Customers shall exercise proper care to protect the property of the city on the customer's premises and in the event of loss or damage to the city's property, arising from the failure of the customer to take proper care of the same, the cost of necessary repairs or replacement shall be paid by the customer. (Ord. #0-2005-10, Dec. 2005)

18-128. Customer's responsibility for violation of rules and regulations. Where the city furnishes water services to a customer, such customer shall be responsible to the city for all violations of the rules and regulations and rate schedules of the city, which violations occur on the premises served or in connection with any such service. Personal participation by the customer in any such violation shall be necessary to impose personal responsibility on the customer. (Ord. #0-2005-10, Dec. 2005)

18-129. Customers not to supply water to others. (1) No customer purchasing water from the city shall directly or indirectly sell, sublet, assign, or otherwise dispose of water so purchased to others without first having received written permission the city. Customers shall not supply water, nor allow water to be carried or run through a hose or pipe, or otherwise, to more than one (1) dwelling unit or business unit without first having received written permission from the city.

(2) Where permission is granted for more than one (1) dwelling unit or business unit to be sewed through a single meter the method of charging for such services are as described in § 18-116 above. (Ord. #0-2005-10, Dec. 2005)

18-130. Cross-connections.[1] (1) No cross-connections of any kind shall be permitted between the water supply from the city's mains and the water supply from any other sources.

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[1]Municipal code reference
Cross-connections: title 18, chapter 4.

(2) A cross-connection shall have the same meaning as that contained in the rules and regulations of the Tennessee Department of Environment and Conservation. The city shall not be obligated to connect to, or render water service to new buildings or to buildings or premises not now approved for water service until such time as a certification is made that no cross-connection exists. (Ord. #0-2005-10, Dec. 2005)

18-131. Water turned on by customer. If the city discontinues water service for nonpayment of a bill, or for any other reason, and the water is turned on without authority of the city, the city shall have the right to discontinue service, remove the meter and charge a fee as per schedule of rates and charges for reinstalling or reconnecting the meter. The city will not be required to again furnish service until all charges against the customer or owner, as the case may be, have been fully paid. (Ord. #0-2005-10, Dec. 2005)

18-132. Damage to property due to water pressure. The city shall not be liable for any damage to a customer's plumbing or property, which damage may be caused by high pressure or by low pressure, or by fluctuations in pressure in the city's water mains. (Ord. #0-2005-10, Dec. 2005)

18-133. Interruption of service. The city will use reasonable diligence in attempting to provide a regular and uninterrupted supply of water, but, in case the supply of water should be interrupted, for any cause, the city shall not be liable for damages resulting therefrom. (Ord. #0-2005-10, Dec. 2005)

18-134. Restricted use of water. In times of emergency or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which the customer may use during such periods. (Ord. #0-2005-10, Dec. 2005)

18-135. Bills for service. (1) The city shall combine charges for sewer and water services in one (1) statement and shall bill the beneficiary of such services in such manner as to require the payment of both charges as a unit, and to enforce the payment of such charges by discontinuing either water service or sewer service or both. The city shall not accept payment of water service charges from any person without receiving at the same time payment of any sewer service charges owed by such person.

(2) Bills for residential service shall be rendered monthly.

(3) Bills for commercial and industrial service may be rendered weekly, semi-monthly, or monthly at the option of the city.

(4) Bills must be paid on or before the due date shown thereon to obtain the net rate; otherwise, the gross rate shall apply. Failure to receive bill will not release customer from payment obligation, nor extend the due date.

(5) In the event bills are not paid by the penalty date, service may be discontinued to the customer and not again resumed until all bills are paid, and the city shall not be liable for the damages on account of discontinuance of service any time after the penalty date, even though payment of such bills is made on the same day either before or after the service is actually discontinued.

(6) Should the date for the final payment of a bill at the net rate fall on a Sunday or a holiday, the business day next following the final date will be held as the last day to obtain the net rate. Net remittance received by mail after the discount date will be accepted by the city if the incoming envelope bears the United States Post Office date stamp of the discount date or any date prior thereto.

(7) The city may elect to read meters less frequently than each month to reduce meter reading expense or for other reasons. If the city elects to read meters less frequently than monthly, the city reserves the right to render an estimated bill to its customers for any billing period for which such customer's meter is not read. If a subsequent meter reading shows that the estimated bill was based upon an erroneous estimate of consumption, the city at its option will either adjust the estimated bill to correct the error or make a compensating adjustment in a later bill.

(8) The city shall not be obligated to make adjustments of any bills unless within ninety (90) days after the questioned bill is paid, the customer files with the city a written objection to said bill specifying the basis for the desired adjustment.

(9) The city shall be under no obligation to extend the due date or the time for paying any bills to the city because the customer disputes the amount of the bill or liability for the bill. The customer shall have the right to pay any disputed bill under protest provided the customer at the time of payment gives the city written notice that the payment is being made under protest together with a written statement of the ground or grounds upon which the customer questions the correctness of the bill; and any such payment thus made under protest shall not be considered a voluntary payment provided the customer files suit to recover the questioned payment within ninety (90) days after such payment is made.

(10) No customer shall be entitled to pay any bill at the net rate while delinquent in the payment of any obligation owed the city.

(11) If a meter fails to register properly, or if the meter is removed to be tested and repaired, or if water is received other than through a meter, the city reserves the right to render and collect an estimated bill based on the best information available.

(12) When a customer has two (2) or more accounts that are payable at different times and wants the same due dates for such accounts, or when other conditions make desirable the use of a due date different from that provided in these rules and regulations, such due date may be established on the customer's application, provided such due date is approved by the city manager.

(13) To the extent that any sales or other tax is payable by a customer on any service provided by the city and the city is obligated to collect such tax from the customer, the customer's failure to pay any such tax shall have the same effect as such customer's failure to pay all or any part of the charge for the service to which such tax is attributable. Failure of the city to bill the customer for all or any part of any such tax will not release or otherwise affect the customer's obligation to pay such tax to the city at any later time.

(14) The city may at its option make adjustments in water (and sewer) bills where excessive billing is directly traceable to hidden leaks, with the adjustment being made on the basis of the city absorbing, writing off (in dollars and cents, not gallons) no more than one-half (1/2) of the overage directly traceable to such hidden leaks, with the customer paying the normal billing (normal billing shall be based on average of six (6) monthly bills just previous to abnormal bill). If the customer does not have six (6) months previous bills, then an average of the total bills shown on the utility records, plus at least one-half (1/2) on the overage directly traceable to such hidden leaks. Hidden leaks are herein defined as those leaks which the customer could not reasonably have been expected to find until a bill for excessive consumption indicated the presence of such leaks in interior plumbing.

(15) No adjustment in billing shall be made where premises are vacated without a notice to discontinue service having been given to the city.

(16) Nothing contained herein shall authorize the city to discontinue service or take other action without complying with all lights or a customer due process of law. (Ord. #0-2005-10, Dec. 2005)

18-136. Procedure for discontinuation of service. In all cases where the city has determined that cause exists justifying the termination or discontinuation of water and sewer service to a customer, the following procedures shall be followed. Notice shall be given to the customer stating that their water and sewer service is going to be discontinued, the date upon which the discontinuance is to be effective and the reason or reasons for the discontinuance of water and sewer service. The notice shall further specify that in the event they wish to contest the action or dispute the reasons for the proposed action, they may contact the city and meet with the city manager or the city manager's designee in an effort to resolve the dispute before the scheduled discontinuation of service. (Ord. #0-2005-10, Dec. 2005)

18-137. Discontinuance of service, refusal to connect service.

(1) The city shall have the right to discontinue service or to refuse to connect service for a violation of or failure to comply with any provision of the following:

(a) Rules and regulations, including the applicable schedule of rates and charges.

(b) The customer's application for service.

(c) The customer's contract for service.

(d) The payment of any obligation due the city, including any required deposit.

Such right to discontinue service shall apply to all service rendered through a single meter, even though more than one (1) consumer or tenant is furnished therefrom, and even though a delinquency or violation is limited to only one (1) such customer or tenant.

(2) Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for payment for service already received or from liability from payments that thereafter become due under the minium bill provisions or other provisions of the customer's contract.

(3) The city shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, company or time to which such service is to be furnished, is in default in the payment of any obligation to the city or has previously had his service disconnected because of a violation of the rules and regulations of the city.

(4) If the city should, for any reason, begin to render service to an applicant to whom the city has a good and valid reason for refusing to render such service, the city shall have the right to discontinue such service at any time within one (1) year after such service has begun, even though such customer does nothing to justify the discontinuance of service during the time such service is being rendered. (Ord. #0-2005-10, Dec. 2005)

18-138. Reconnection charge. (1) The customer shall pay all costs for discontinuance of service for temporary repairs, and for other purposes for the customer's exclusive benefit with the minimum charge for such disconnection as shown in the schedule of rates and charges.

(2) Whenever service has been discontinued as provided for above, or for nonpayment of bills, a reconnection charge may be collected by the city as shown in the schedule of rates and charges. (Ord. #0-2005-10, Dec. 2005)

18-139. Termination of service by customer. (1) Under no circumstances will the continuance or discontinuance of water service be used as means of forcing an occupant of any premises to surrender possession thereof.

(2) Where water service being furnished to an occupant of premises under a contract not in the occupant's name, the city reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract.

(3) Written notice of the customer's desire for such service to be discontinued may be required; and the city shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, to discontinue service, the customer shall not be responsible to the city

for charges for any service furnished after the expiration of such ten (10) days period. (Ord. #0-2005-10, Dec. 2005)

18-140. Liability for cut-off failure. (1) The city's liability shall be limited to the forfeiture of the right to charge the customer for water that is not used but is received from a service connection under any of the following circumstances:

(a) After receipt of at least ten (10) days written notice to discontinue the water service, the city has failed to discontinue such service.

(b) The city has attempted to discontinue service but such service has not been completely cut off

(c) The city has completely cut off service, but subsequently the cut-off develops a leak or is turned on again by the representatives of the city so that water enters the customer's pipes from the city's mains.

(2) Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cut-off failures. If a customer wishes to avoid possible damage for cut-off failures, the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained, after his water service has been cut off. (Ord. #0-2005-10, Dec. 2005)

18-141. Relocation of facilities. (1) The city will bear the expense of relocating meters, service connections, mains and any and all other distribution facilities owned by the city where the relocation work is performed for the sole convenience of the city.

(2) The cost of relocating meters, and service connections, is covered in the extension policies of the city. Where other water distribution facilities owned by the city other than service connection and meters, are relocated for the sole purpose of convenience of the customer, the cost of such relocation work performed by the city will be paid to the city by the customer requesting the facilities to be relocated.

(3) The allocation of costs involved in relocating meters, service connections, mains and any and all other water distribution facilities of the city for the mutual convenience and advantage of the customer and the city will be determined by negotiations between the two parties. (Ord. #0-2005-10, Dec. 2005)

18-142. Standby and resale service. All purchased water (other than emergency or standby service) used on the premises of customer shall be supplied exclusively by the city and the customer shall not, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the city. (Ord. #0-2005-10, Dec. 2005)

18-143. Unauthorized use or interference with water supply. No person shall turn on or turn off any of the city's stop cocks, valves, spigots or fire hydrants, without permission or authority from the city. (Ord. #0-2005-10, Dec. 2005)

18-144. Connections with fire hydrants. Whenever the city authorizes a connection to be made to a fire hydrant, the person or persons making such a connection shall attach to the fire hydrant outlet a reducing coupling and an independent valve for regulating the water supply. The main valve for the fire hydrant must be opened full at the beginning of work each day and shall remain open until the close of work for such day, during which working period the water supply shall be regulated entirely by the independent valve. No wrench shall be used in the operation of the fire hydrant unless the type of such wrench has been approved for such use by the city. No water leakage shall be allowed in such use of water from a fire hydrant. (Ord. #0-2005-10, Dec. 2005)

18-145. 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 city. All private fire hydrants shall be sealed by the city, 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 the city's rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall give the city written notice of such occurrence as soon as possible. (Ord. #0-2005-10, Dec. 2005)

18-146. Continuous flow on unmetered service. No customer taking water through an unmetered service shall use any device requiring or allowing a continuous flow of water unless such use has been approved in writing by the city. (Ord. #0-2005-10, Dec. 2005)

18-147. Restricted use of water. In times of emergencies or in times of water shortage, the city 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. (Ord. #0-2005-10, Dec. 2005)

18-148. Interruption of service. The city will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair and extension of the city's water system the water supply may be cut off without notice, when necessary or desirable; and each customer must be prepared for such

emergencies. The city shall not be held liable for any damages from such interruption of service or for damage from the resumption of service without notice after any such interruption. (Ord. #0-2005-10, Dec. 2005)

18-149. **Conflict**. In the case of conflict between any of the provisions of the rules and regulations and the schedule of rates and charges, the provisions of the schedule of rates and charges shall apply. (Ord. #0-2005-10, Dec. 2005)

18-150. **Revisions**. These rules and regulations may be revised, amended, supplemented or otherwise altered or changed from time to time. Such changes, when effective, shall have the same force and effect as the present rules and regulations. (Ord. #0-2005-10, Dec. 2005)

18-151. **Separability**. If any clause, sentence, paragraph, section or part of these rules and regulations or the city's schedule of rates and charges shall be declared invalid or unconstitutional, it shall not affect the validity of the remaining part of these rules and regulations or the city's schedule of rates and charges. (Ord. #0-2005-10, Dec. 2005)

18-152. **Filing and posting**. A copy of these rules and regulations, together with a copy of the city's schedule or rates and charges, shall be kept open for inspection at the offices of the city. (Ord. #0-2005-10, Dec. 2005)

CHAPTER 2

WASTEWATER RULES AND REGULATIONS

SECTION

18-201. Purpose. The following rules and regulations set forth uniform requirements for the disposal of wastewater in the service area of the City of Maynardville wastewater treatment system. The objectives of these rules and regulations are:

(1) To protect the public health;

(2) To provide problem free wastewater collection and treatment service;

(3) To prevent the introduction of pollutants into the wastewater treatment system which will interfere with the system operation, will cause contamination of the solid wastes (sludge) produced by the treatment system, will cause the system's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, will cause physical damage to the wastewater treatment system facilities.

(4) To provide for full and equitable distribution of the cost of the wastewater treatment system;

(5) To enable the City of Maynardville to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 CFR part 403), and other applicable federal and state laws and regulations;

(6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

Meeting these objectives requires that all persons in the service area of the City of Maynardville must have adequate wastewater treatment either in

the form of a connection to the city's wastewater treatment system or an appropriate private disposal system. The rules and regulations also provide for the issuance of permits to system users for the regulation of wastewater discharge volume and characteristics, for monitoring and enforcement activities, and for 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. (Ord. #0-2005-10, Dec. 2005)

18-202. Scope. (1) These rules and regulations and applicable rate schedules are a part of all contracts for receiving wastewater service from the city whether the service is based upon contract, agreement, signed application or otherwise.

(2) The rules and regulations apply to all persons who are located within the service area of the City of Maynardville and who are users of the City of Maynardville Wastewater Treatment System.

(3) Except as otherwise provided herein, the city manager or his designee shall administer, implement, and enforce the provisions of the rules and regulations. (Ord. #0-2005-10, Dec. 2005)

18-203. Definitions. For the purpose of these rules and regulations, and unless the context specifically indicates otherwise, the following terms shall have the meaning ascribed:

(1) "Act" or "the Act," shall mean the Federal Water Pollution Control also known as the Clean Water Act as amended, 33 U.S.C. § 1251, et seq.

(2) "Availability of sewer, having a public sewer available or public sewer is available" shall mean having sewer lines of sufficient depth to allow gravity flow from the first floor and adjacent to any property line providing that the property is developed and that occupied structures or structures intended to be occupied are within two hundred (200) linear feet of the public sewer.

(3) "B.O.D." (biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20) degrees centigrade (sixty eight (68) degrees fahrenheit), expressed in milligrams per liter.

(4) "Building sewer" shall mean that portion of the sewer contained within the building proper.

(5) "Categorical standards" are those pollutant limits or standards for either new or existing specific industrial users established pursuant to and in accord with 40 C.F.R. § 403.6.

(6) "COD" (chemical oxygen demand) shall mean the quantity of oxygen utilized in the rapid oxidation of organic matter by a strong chemical oxidant in accordance with "standard methods," expressed in milligrams per liter.

(7) "Chlorine demand" shall mean the amount of chlorine required to produce a free chlorine residual of 0.1 mg/l after thirty (30) minutes contact time, expressed in milligrams per liter.

(8) "City" shall mean the City of Maynardville, Tennessee.

(9) "Cleanout" shall mean a wye connection, a vertical extension pipe and a screwed cap used for access to clean out a lateral.

(10) "Color" means the optical density at the visual wavelength of maximum absorption relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

(11) "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.

(12) "Commercial and industrial use" shall mean all uses, with the exception of domestic use as defined in this chapter.

(13) "Compatible wastes" shall mean biochemical oxygen demand. suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in a publicly-owned treatments works NPDES permit for which the publicly-owned treatment works is designed to treat such pollutants and in fact does treat such pollutants to a substantial degree.

(14) "Connection charge" shall mean that charge levied to defray the expenditure required to process the application, inspect the connection and approve the discharge permit.

(15) "Connection" shall mean any physical tie or hookup made to a sewer line owned, operated, and maintained by the city.

(16) "Cooling water" shall mean the water used for heat exchange and discharged from any system of condensation, air conditioning, cooling, refrigeration, or other such system, but which has not been in direct contact with any polluting material.

(17) "Customer" shall mean any person who receives sewer service from the city under either any express or implied contract requiring such person to pay the city for such service.

(18) "Domestic use" of the facilities of the wastewater control system shall be defined and limited to single-family, multi-family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for disposal of domestic wastewater and use for residential purposes only.

(19) "Dwelling unit" shall mean any structure occupied by one (1) or more persons of a single family for residential purposes. Apartment building and other structures occupied by more than one (1) family shall be considered multiple dwelling units.

(20) "Dwelling unit equivalent" is that daily wastewater flow volume equal to the daily wastewater flow volume of one (1) single family dwelling unit which, for the purpose intended in these regulations, is established at three hundred (300) gallons per day.

(21) "Environmental Protection Agency" or "EPA," means Environmental Protection Agency, an agency of the United States or, where

appropriate, the term may also be used as a designation for the regional water management division director or other duly authorized official of said agency.

(22) “Extra strength wastewater” shall be defined as any wastewater that has any characteristics or combination or characteristics exceeding the characteristics or normal domestic wastewater and that requires effort or expenditure over and above that required for treatment of normal domestic wastewater.

(23) “Floating oil” is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and does not interfere with the collection system.

(24) “Grab sample” is an individual sample collected over a period of time not exceeding fifteen (15) minutes and consistent with that procedure described in 40 C.F.R. 403, Appendix E.

(25) “Grease and oil” shall mean the group of substances with similar physical characteristics, which includes fatty acids, soaps, fats, waxes, oils and any other material solvent extracted and not volatilized during evaporation of the solvent.

(26) "Incompatible waste” shall mean all pollutants other than compatible as defined within.

(27) “Indirect discharge” or “discharge” means the introduction of pollutants into the city's wastewater treatment facility from any non-domestic source regulated under § 307(b)(c) or (d) of the Act.

(28) “Industrial user” or “user” means a source of indirect discharge.

(29) “Industrial waste” are the liquid wastes, other than domestic wastewater, resulting from processes or operations employed in industrial or commercial establishments.

(30) “Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(a) Inhibits or disrupts the city's wastewater treatment facility, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) Therefore is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory/regulatory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA) (including Title II), more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Title D of the SWDA; the Clean Air Act; the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

(31) “Natural outlet” shall mean any outlet, including storm sewers and combined sewer overflows, into a water course, pond, ditch, lake or other body of surface groundwater.

(32) “National pretreatment standard," "pretreatment standard," or "standard” means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to industrial users. This term includes prohibitive discharge limits established pursuant to section 40 C.F.R. section 403.5.

(33) “National Pollution Discharge Elimination System” or “NPDES permit" or "permit” means a permit issued to the city for the operation of its treatment works pursuant to section 402 of the Act.

(34) “New source” means:

(a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act 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 caused the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections (ii) or (iii) of this section but otherwise alters, replaces or adds to existing process or production equipment

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program

(A) Any placement, assembly, or installation of facilities or equipment, or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings,

structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(35) "Normal domestic wastewater" shall be regarded as "normal" for the city. Normal domestic wastewater shall contain a daily average of not more than three hundred (300) milligrams per liter of suspended solids; not more than two hundred forty (240) milligrams per liter of BOD; and not more than fifty (50) milligrams per liter of grease and oil.

(36) "Pass-through" means a discharge which exits the city's treatment works into the waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

(37) "Penalty date" shall mean the date of fifteen (15) days after the date of the bill, except when some other date is expressly required by these rules, regulations and rate ordinances, or by an agreement approved by the city. The penalty date is the last date upon which sewer bills can be paid at net rates.

(38) "Person," "enterprise," "establishment," or "owner" shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity or other legal entity, or their legal representatives or assigns, or society using the wastewater control system. This definition includes all federal, state or local governmental entities.

(39) "pH" means the negative logarithm of the hydrogen ions concentration expressed in standard units.

(40) "Treatment plant" means that portion of the city's wastewater treatment plant which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(41) "Premise" shall mean any structure or group of structures operated as a single business or enterprise provided, however, the term "premise" shall not include more than one (1) dwelling.

(42) Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the city's wastewater control system. The reduction or alteration may be obtained by physical, chemical or biological processes, by process changes, or by other means, except as prohibited by 40 C.F.R. section 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or other facilities for protection against surges or slug

loadings that might interfere with or otherwise be incompatible with the city's wastewater control system. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or other wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 C.F.R. section 403.6(e).

(43) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment other than a national pretreatment standard, imposed on an industrial user.

(44) "Properly shredded garbage" shall mean the wastes from the preparation of, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewer, with no particle greater than one-half (1/2) inch in any dimension.

(45) "Plumbing inspector" shall mean the compliance officer of the city.

(46) "Public sewer" shall mean a sewer controlled by the city.

(47) "Publicly Owned Treatment Works" or "POTW" means a treatment works as defined by section 212 of the Act, which is owned by a state or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the collection, 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. It also includes the city's wastewater treatment plant. The term also means the municipal 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.

(48) "Sanitary sewer" is a sewer intended to receive domestic wastewater and industrial waste without the admixture of surface water and storm sewer.

(49) "Sanitary wastewater" shall mean wastewater discharging from the sanitary conveniences of dwellings, including apartment houses and hotels, office buildings, factories or institution, and free from storm and surface water.

(50) "Service line" shall mean that portion of the sewer extending from the sewer lateral to the building proper.

(51) "Sewer" shall mean a pipe or conduit for carrying wastewater.

(52) "Sewer improvement charge" shall mean the amount charged to the owner or occupant of each occupied lot or parcel of land which was furnished access to sewer lines to finance and amortize construction of the sewerage collection system extension. The amount of the charge and terms of payment shall be set forth in the schedule of rates and charges.

(53) "Sewer lateral" or "lateral" shall consist of the pipe line extending from any sewer main of the city to a private property line or public right of way.

(54) “Sewer service charge" and "wastewater service charge” shall be synonymous and shall mean the amount charged to the customer for operation, maintenance and capital improvements for the wastewater control system.

(55) “Shall” is mandatory; "may" is permissive.

(56) “Significant industrial user.” (a) Except as provided in subsection (b), the term "significant industrial user" means:

(i) All industrial users subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. chapter I, subchapter N; and

(ii) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of processed wastewater to the city (excluding sanitary, non-contact, cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the city's treatment plants; or is designated as such by the control authority as defined in 40 C.F.R. 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the city's operation or for violating any pretreatment standard or requirement (in accordance with 40 C.F.R. 403.8(f)(6)).

(b) Upon a finding that an industrial user meeting the criteria in subsection (a)(ii) has no reasonable potential for adversely affecting the city's operation or for violating any pretreatment standard or requirement, the control authority (as defined in 40 C.F.R. 403.12(a)) may at any time, on its own initiative or in response to a petition received from an industrial user or city, and in accordance with 40 C.F.R. 403.8(f)(6), determine that such industrial user is not a significant industrial user.

(57) “Slug discharge” means any discharge of water or wastewater of a non-routine, episodic nature, including but not limited to, an accidental spill or non-customary batch discharge.

(58) “Standard Industrial Classification” or “SIC” shall mean a classification pursuant to the National Industrial Classification Manual issued by the Executive of the President, Office of Management and Budget, 1972.

(59) “Standard methods” shall mean standard methods for the examination of waste and wastewater, latest edition, published by the American Water Works Association and the Water Pollution Control Federation.

(60) “Storm sewer” or “storm drain” shall mean a pipe or conduit, ditch, or canal which carries storm and surface waters and drainage, cooling water or other unpolluted water, but excludes wastewater.

(61) “Suspended solids” shall mean solids that either float on the surface of or are in suspension in wastewater, and which are removable by laboratory filtering.

(62) “Submission” means

(a) A request by the city or POTW for approval of a pretreatment program to the EPA or a director;

(b) A request by the city to the EPA or a director for authority to revise the discharge limits in categorical pretreatment standards to reflect the city's wastewater treatment plant pollutant removal; or

(c) A request to the EPA by an NPDES state for approval of its state pretreatment program.

(63) "Toxic pollutant" shall mean any pollutant or combination of pollutants listed as toxic and which is under regulations promulgated by the administrator or the Environmental Protection Agency under the provision of 33 U.S.C. 1317, section 307.

(64) "Twenty-four-hour flow proportional composite sample" shall mean a sample consisting of several effluent portions collected during a twenty-four (24) hour period in which the portions of sample are proportionate to the flow and combined to form a representative sample.

(65) "Unpolluted water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

(66) "User" shall mean any occupied property or premise having a connection to the sewer system or having access thereto.

(67) "Wastewater" shall mean the water carried wastes from residences, business buildings, institutions and industrial establishments, singular or in any combination, together with such ground, surface or storm water as may be present.

(68) "Wastewater control system" shall mean all facilities for collecting, pumping, treating and disposing of wastewater and sludge.

(69) "Wastewater treatment plant" shall mean any arrangement of devices and structures used for treating wastewater and sludge.

(70) "Waters of the state" shall mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

(a) Wherever the context shall admit or require, words used herein in the singular shall include the plural, words used in the plural shall include the singular, words used in the masculine shall include the feminine, and words used in the feminine shall include the masculine.

In the event of any conflict between the definitions of any form contained in this ordinance and those contained in the Act or the regulations adopted pursuant thereto, the definitions of the Act or regulations shall govern the meaning of the term. (Ord. #0-2005-10, Dec. 2005)

18-204. Provision of service. (1) The city will endeavor to furnish continuous wastewater service, but does not make guarantee of such service to the customer, and shall not be liable for any interruption of service whatsoever.

(2) In connection with the operation, maintenance, repair and extension of the city's wastewater system, the city retains the right to interrupt service without notice, whenever necessary or desirable; and each customer must be prepared for such emergencies. The city shall not be liable for any damages from such interruption of service, or for damage from the resumption of service without notice after any such interruption.

(3) The city retains the right to restrict the use of its wastewater collection, treatment, and disposal facilities in any reasonable manner necessary for the protection of the system. (Ord. #0-2005-10, Dec. 2005)

18-205. Inspections. (1) The city shall have the right, but not be obligated to inspect in any manner any service line, installation or plumbing system before wastewater service is furnished or at any later time. The city reserves the right to refuse or discontinue service to any service line, plumbing system or other installation not in accordance with the standards fixed by the city ordinances regulating plumbing, or not in accordance with any special contract, these rules and regulations, the city's standard specifications for sewer construction, or other requirements of the city.

(2) The city's identified representatives and employees shall be granted access to the customer's premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to determine that the city's rules and regulations are being complied with.

(3) Any failure to inspect or reject a customer's service line, installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (Ord. #0-2005-10, Dec. 2005)

18-206. Notice of trouble. Customer shall notify the city immediately should the service be unsatisfactory for any reason, or should there be any defects, trouble, or accidents affecting the supply of water. Such notice, if verbal, should be confirmed in writing. (Ord. #0-2005-10, Dec. 2005)

18-207. Customer's responsibility for violation of rules and regulations. Failure upon the customer or user's part to comply with any of the rules and regulations of the city shall give the city the right to discontinue service, and such service shall not be reestablished until the customer has complied with all of the rules and regulations of the city pertaining to the supplying of wastewater treatment services. Personal participation by the

customer in any such violations shall not be necessary to impose personal responsibility on the customer. (Ord. #0-2005-10, Dec. 2005)

18-208. Discontinuance of service; refusal to connect service.

(1) The city shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with any provision of the following:

(a) The rules and regulations, including the schedule of rates and charges.

(b) The customer's application for service.

(c) The customer's contract for service.

(d) The payment of any obligation due the city including any required deposit.

(2) The right to discontinue service shall apply to all service received through a single tap or service line, even though more than one (1) customer or tenant is furnished service therefrom; and regardless of whether the delinquency or violation is limited to only one (1) such customer or tenant.

(3) Discontinuance of service by the city for any causes stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under the minimum bill provisions or other provisions of the customer's contract.

(4) The city shall have the right to refuse service to any applicant whenever the applicant or any member of the household, company or firm to which such service is to be furnished is in default in the payment of any obligation to the city or has theretofore had his service disconnected because of a violation of the rules and regulations of the city.

(5) If, for any reason, the city begins rendering service to an applicant to whom the city has a good and valid reason for refusing service, the city shall have the right to discontinue such service without cause at any time within one (1) year after such service is begun.

(6) The city reserves the right to discontinue or refuse any or all city provided services in lieu of wastewater service for any violation of the previously mentioned provisions of this section. (Ord. #0-2005-10, Dec. 2005)

18-209. Requirements for proper wastewater disposal. With the increasing concern and emphasis being placed on groundwater quality by regulatory agencies and the general public, the city feels strongly that it has environmental responsibilities to all those living and working within its service area and should take certain steps to ensure or enhance the quality of water reaching both our surface streams and groundwater supplies. While the city recognizes that customers with properly functioning private systems would prefer utilizing these systems for as long as possible, we cannot deny the potential problems which these systems pose to the area's ecology. Accordingly,

the city will strongly encourage all customers within its service area to connect to sanitary sewers when and where they are available.

(1) It is prohibited 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 §§ 18-209(3), (4), (5) and (6) below, of these rules and regulations.

(2) Except as provided in (3) and (4) of this section, it is prohibited to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(3) Except as provided in subsections (4) and (5) of this section, the owner of all houses, buildings, or other properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, easement, or right-of-way in which there is now located or may in the future be located a public sanitary sewer in the service area, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of these rules, within thirty (30) days after date of official notice to do so, provided that said public sewer is available as defined herein. Use of any septic tanks, cesspools, and similar wastewater disposal facilities shall be abandoned at such time of connection with the public sewer system.

(4) If, at the time sewer becomes available, a building is properly connected to a private sewer system complying with the provisions of §§ 18-214 and 18-215 of these rules and regulations, the owner shall not be required to connect to the public sewer. Where sewer is available, however, it will be presumed that the wastewater from the premises is discharged either directly or indirectly into the sewer, and the property shall be billed for wastewater service, regardless of the status of any connection to a private system.

(5) 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.

(6) Where a public sanitary sewer is not available as defined in these regulations, the building sewer shall be connected to a private sewage disposal system complying with the provisions of §§ 18-214 and 18-215 of these rules and regulations.

(7) If, at any time, a documented failure of a private system within the service area of the city occurs the owner shall be required to connect to an available sewer within thirty (30) days of notification by the city manager. Failure to comply with the order to connect to an available system will constitute grounds for the discontinuance of any or all city services in lieu of wastewater service as set forth in §§ 18-207 and 18-208 of these rules and regulations. (Ord. #0-2005-10, Dec. 2005)

18-210. Physical connection to public sewer. (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permission from the city manager as required by § 18-216 and, when industrial pretreatment is required, in compliance with the provisions of §§ 18-301, et seq.

(2) The city will only install wastewater connections (laterals) from the main to the property line or right-of-way of the customer. A cleanout or wye connection will be installed at the customer's property line or right-of-way and will mark the limit of the city's portion of the sewer. All service connections to the city's wastewater system shall be made at a suitable location selected by authorized personnel of the city and according to proper sizes and grades for service connections as established in the city's standard specifications for sewer construction. All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner.

(3) For a new gravity residential or commercial (non-residential) sewer tap the city shall require the sewer user to install an appropriate sized tee, six inch (6") service line to the property line, and a cleanout assembly plugged to the customer side with a watertight cap on the top of the cleanout at least one foot (1') above ground level. For a new force main residential or commercial sewer tap the city shall require the sewer user to install an appropriately sized tee with cap blocks or concrete blocking behind it, two inch (2") service line to the property line, and a two inch (2") ball valve on the end of the force main. For long side sewer force main service line, the city shall allow one (1) line to be brought across the road and separated to two (2) adjacent lots at the lot line. A valve marker shall be installed at the end of the ball valve. Inspection is required by the city of all new sewer taps.

(4) Services lines shall conform to the requirements set forth in the city's "Standard Specifications for Sewer Construction." The service line of the owner shall be installed at the owner's expense and shall be at least ten feet (10') distant from any water service line. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the service line.

(5) A separate and independent service line shall be provided for every building; except where one (1) 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, court, yard, or driveway, the service line from the front building may be extended to the rear building and the whole considered as one (1) service line. Housing, buildings or properties having one (1) roof line and containing multi-occupancy units may be connected to the city system by means of a single lateral, providing such lateral is shown to have adequate capacity to carry the maximum quantity of wastewater in accordance with the city's "Standard Specifications for Sewer Construction" and the city's standard plumbing code.

(6) Old service lines may be used in connection with new buildings only when they are found, on examination and testing by the city manager or his/her authorized representatives, to meet all city requirements in effect at that time. All others must be sealed to the specifications of the city.

(7) All excavations for service line 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.

(8) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is § 18-39 connected directly or indirectly to a public sanitary sewer. (Ord. #0-2005-10, Dec. 2005, as replaced by Ord. #O-2020-4, May 2020 ***Ch1_01-10-23***)

18-211. Inspection of connections. (1) The sewer connection and all service lines from the building to the public sewer main line shall be installed in accordance with the city's specifications, and inspected by the city manager or his/her authorized representative before the underground portion is covered. In areas requiring permitting and inspection of laterals by the city or other government bodies and/or their representatives, the city inspection will be limited to that portion of the line not on private property.

(2) The applicant for discharge shall notify the city manager 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/her representative. (Ord. #0-2005-10, Dec. 2005)

18-212. Sewer connection fees. (1) A sewer connection fee for a building sewer installation shall be paid prior to installation of a new lateral by the city. This fee shall constitute a contribution in aid of construction and shall cover the costs of installing the lateral, inspection of the sewer service lines and service connections to the public sewers. The fee shall be set by the city based on the estimated cost for the average lateral installation for the previous fiscal year. (Ord. #0-2005-10, Dec. 2005)

18-213. Maintenance of building sewers and service lines.

(1) Each individual property owner or user of the city's wastewater treatment system shall be entirely responsible for the maintenance of the building sewer and service line located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the city manager to meet specifications of the city. Failure to perform the proper maintenance of the service line will constitute grounds for discontinuation of service as set forth in § 18-208 of these rules and regulations.

(2) The city will be responsible for the maintenance and upkeep of all wastewater laterals supplied with a cleanout or wye connection at the property line or right of way of the customer, regardless of whether such lateral may have been installed by the city. Maintenance and upkeep of wastewater laterals not so supplied with a cleanout or wye at the property line or right of way shall be the sole responsibility of the customer.

(3) Should the city's inspector find that a property owner or user has failed to maintain said lateral and/or service line in accordance with the city's specifications and regulations, the city's inspector shall give notice of the insufficiency to said owner or user, or his duly authorized agent. At the discretion of the city manager, such repairs as deemed necessary to remedy the insufficiency may be performed by city personnel and all cost associated with the repair added to the sewer service charge payable by the owner. Failure to remedy the insufficiency within a reasonable time or to pay the cost of repairs performed by city personnel will constitute grounds for discontinuation of service as set forth in § 18-208 of these rules and regulations. (Ord. #0-2005-10, Dec. 2005)

18-214. Availability. (1) Where a public sanitary sewer is not available as defined in § 18-203(2), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(2) For any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to one-eighth (1/8) inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in §§ 18-209 through 18-213, the owner may elect to provide a private sewage pumping station in accordance with any applicable local plumbing or building codes. The private pumping station will be maintained at the owner's expense.

(3) Where a public sewer becomes available, the building sewer shall be connected to said sewer within thirty (30) days after date of official notice to do so. (Ord. #0-2005-10, Dec. 2005)

18-215. Requirements. (1) A private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the city manager or his/her authorized representative stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil than that specified by the Union County Health Department.

(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the Union County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Union County Health Department.

(3) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Union County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the Union County Health Department when work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Union County Health Department.

(4) 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 Union County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(6) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Union County Health Department. (Ord. #0-2005-10, Dec. 2005)

18-216. Applications for discharge of domestic wastewater.

(1) Standard contract (a) All users or prospective users which generate domestic wastewater are required to make written contract with the city upon standard contract forms which shall be supplied by the city. This contract shall include, but not be limited to, the location of the premises to be served, including street, lot number, and relative elevation of the main floor or basement of the premises.

(b) Connection to the municipal sewer shall not be made until the application is received and approved by the city manager, the building sewer is installed in accordance with §§ 18-209 through 18-213 above, and an inspection has been performed by the superintendent or his/her representative.

(c) Any use of wastewater services shall implicitly bind the customer by the terms of the applicable standard contract, regardless of whether a written contract has been signed.

(2) Ownership dispute Should application for service be made for a premises concerning which the city knows there is a dispute as to ownership or the right of occupancy, and one or more of the claimants attempts to prevent such service from being furnished, the city reserves the right to adopt either of the following alternatives:

(a) To treat the applicant in actual possession of the premises to be served, as being entitled to such service, irrespective of the rights or claims of the other persons.

(b) To withhold service, pending a judicial or other settlement of the rights of the various claimants.

(3) Obligation to provide service The receipt of a prospective customer's application for service shall not obligate the city to render service. If the service cannot be supplied in accordance with the rules, regulations, and general practice of the city, the connection charge will be refunded in full. The city shall not be liable to the applicant for service. Conditional waivers for additional services may be granted by the city manager for interim periods if compliance may be assured within a reasonable period of time.

(4) Termination of service by customer (a) Customers who have contracts guaranteeing a minimum charge and who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days' written notice to that effect, unless their contract specifies otherwise. Notice to discontinue service prior to expiration of contract term will not relieve the customer from any minimum charge guaranteed payment under the contract or any applicable rate schedule.

(b) Under no circumstances will the continuance or discontinuance of service be used as a means of forcing the occupant of premises to surrender possession thereof.

(c) When service is furnished to a premises under a contract which is not in the occupant's name, the city reserves the right to impose the following conditions upon a request for discontinuance of service:

(i) The customer requesting termination of service shall provide written notice to that effect. Following receipt of written notice, the city shall have ten (10) days in which to comply; during which time the customer shall be responsible to the city for all charges of the continued service. If the city continues service after the aforementioned ten (10) day period, the customer shall not be responsible to the city for any service charges incurred subsequent to expiration of the ten (10) day period.

(ii) The occupant of premises to which service has been ordered discontinued may be allowed, by the city, to enter into a contract for service in the occupant's own name, subject to compliance with the city's rules and regulations with respect to new applications for service. (Ord. #0-2005-10, Dec. 2005)

CHAPTER 3

ANIMAL AND VEGETABLE FATS, OILS AND GREASE, SOILS/SAND, LINT TRAPS AND INTERCEPTORS

SECTION

18-301. Purpose. The purpose of this chapter is to control discharges into the public sewerage collection system and treatment plant that interfere with the operations or the system, cause blockage and plugging of pipelines, interfere with normal operation of pumps and their controls and contribute waste of a strength or form that is beyond the treatment capability of the treatment plan. (Ord. #0-2010-3B, May 2011)

18-302. 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, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amounts which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required where commercial cooking is taking place. 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. (Ord. #0-2010-3B, May 2011)

18-303. Definitions. In the interpretation and application of this chapter the following words and phrases shall have the indicated meanings:

(1) "Grease interceptor." An interceptor whose rated flow is fifty (50) g.p.m. or less and is typically located inside the building.

(2) "Grease trap." An interceptor whose rated flow exceeds fifty (50) g.p.m. and is located outside the building.

(3) "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. (Ord. #0-2010-3B, May 2011)

18-304. Fat, oil, grease, and food waste. (1) 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.

(2) 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 operational problems to structures or equipment in the public sewer sytem.

(3) 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 adverse 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 measures may be required. (Ord. #0-2010-3B, May 2011)

18-305. 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 will be sized to effectively remove sand, soil, and oil at the expected flow rates. These interceptors will 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. (Ord. #0-2010-3B, May 2011)

18-306. 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 two inches (2") or larger in size such as, strings, rags, buttons, or other solids detrimental to the system. (Ord. #0-2010-3B, May 2011)

18-307. Control equipment. The equipment or facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with 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, or lack thereof, the owner or operator shall be required to refund the labor, equipment materials and overhead costs to the city. Nothing in this section 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 the control equipment. (Ord. #0-2010-3B, May 2011)

18-308. Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents or surfactants are prohibited. The use of live bacteria products requires written approval of the superintendent. (Ord. #0-2010-3B, May 2011)

18-309. Enforcement and penalties. Any person who violates this chapter shall be guilty of a civil violation punishable under and according to the general penalty provision of the city's municipal code of ordinances. Each day's violation of this chapter shall be considered a separate offense. Where a municipality has an industrial pretreatment program, violators may be issued industrial pretreatment permits where failure to follow permit requirements would follow administrative enforcement provisions of the pretreatment program with fines up to ten thousand dollars ($10,000.00) per day. (Ord. #0-2010-3B, May 2011)

18-310. Alteration of control methods. The city through the superintendent reserves the right to request additional control measures if measures taken are shown to be insufficient to protect sewer collection system and treatment plant from interference due to the discharge of fats, oils, and grease, sand/soil, or lint. (Ord. #0-2010-3B, May 2011)

18-311. Severability. Each section, subsection, paragraph, sentence, and clause of this chapter is declared to be separable and severable. (Ord. #0-2010-3B, May 2011)

CHAPTER 4

CROSS-CONNECTIONS

SECTION

18-401. Introduction. (1) Goal. The goal of the Maynardville Water Department is to supply safe water to each and every customer under all foreseeable circumstances. Each instance where water is used improperly so as to create the possibility of backflow due to cross-connections threatens the health and safety of customers and chances of realizing this goal. The possibility of backflow due to improper use of water within the customer's premises is especially significant because such cross-connections may easily result in the contamination of our water supply mains. Such situations may result in the public water system becoming a transmitter of diseased organisms, toxic materials, or other hazardous substances that may adversely affect large numbers of people. The only protection against such occurrences is the elimination of such cross-connections or the isolation of such hazards from the water supply lines by properly installed approved backflow prevention assemblies. The Maynardville Water Department must continue maintenance of a continuing program of cross-connection control to systematically and effectively prevent the contamination or pollution of all potable water systems.

(2) Plan of action. The Maynardville Water Department is determined to take every reasonable precaution to ensure that cross-connections are not allowed to contaminate the water being distributed to its customers. This cross-connection plan outlines a course of action designed to control cross-connection within the area served by the utility. This plan is intended to be a practical guide for safeguarding the quality of water distributed from becoming contaminated or polluted through backflow. By following the plan of action, the water provider will ensure that all aspects of this ordinance on cross-connection control are being followed by the customer. (Ord. #0-2012-5, June 2012)

18-402. Authority for cross-connection control. A copy of the installation criteria is attached to this plan as appendix A. This chapter prohibits cross-connections within water systems, authorizes the water system to make inspections of the customer's premises, requires that cross-connection hazards be corrected and provides for enforcement. This chapter expresses clear determination on the part of the board of directors that the water system is to be operated free of cross-connections that endanger the health and safety of those depending upon the public water supply. This chapter is considered to be a sound basis for the control of cross-connection hazards by the operating staff and management of the Maynardville Water Department. The provisions contained within this chapter are in keeping with the requirements set forth in Tennessee Code Annotated § 68-221-711(6), and the Tennessee Department of Environment and Conservation Rules, section 1200-5-1-.17(6), governing public water systems. (Ord. #0-2012-5, June 2012)

18-403. Program to be pursued. The Maynardville Water Department will establish an active on-going cross-connection control program. This program is to be a continuing effort to locate and correct all existing cross-connection hazards and to discourage the creation of new problems. Safeguarding the quality of water being distributed to our customers is a high priority concern of the management of the Maynardville Water Department.

(1) Staffing. Water provider has designated staffing to ensure that the program to control cross-connections is pursued in an aggressive and effective manner. It is proposed that a minimum of one (1) man at four (4) days per month be allotted to the cross-connection control program initially. Depending on customer preference in scheduling, work related to the testing of devices may occur after hours or on weekends. A cross-connection control coordinator or manager and successor will be named. The cross-connection control coordinator is in charge of implementation of an effective cross-connection control program. The cross-connection control coordinator will ensure that all aspects of the plan and this chapter are followed.

(2) Cross-connection control surveys/inspections. A representative of the water system will survey the distribution for all customers, both residential and nonresidential, for possible cross-connections. If it determined from the surveys that possible cross-connection may exist, the premise will be inspected. The need for backflow protection will be determined based on the results from the inspection. Notification of the type of backflow prevention assembly required and a date of compliance will be sent to the customer.

(a) Nonresidential. All nonresidential and commercial establishments are required to have an approved backflow preventer installed that is in agreement to the hazard present or be inspected every five (5) years. The inspections will be performed on all new establishments before water service is established or within ninety (90) days of connection. If there are existing establishments that have not

been inspected, a list agreed upon by state (based on risk and public safety) and timeline for inspection by the water provider will be generated. All nonresidential establishments not requiring an assembly will be inspected (every five (5) years maximum). If establishment changes ownership (name listed on water bill), if plumbing permits are issued, irrigation systems installed, or a well is drilled within the water provider's system, then an inspection will need to be performed (no later than ninety (90) days). The need for backflow protection will be determined based on the results from the inspection. Notification of the type of backflow prevention assembly required and a date of compliance will be sent to the customer.

(b) Residential. For new residential customers, a written questionnaire will be given upon request for water service. If the survey reveals that a potential cross-connection may be present, an inspection is to be performed. The need for backflow protection will be determined based on the results from the inspection. Notification of the type of backflow prevention assembly required and a date of compliance will be sent to the customer. Each new residential customer will agree to not crease cross-connections and a brochure is given to each new customer describing cross-connections and the responsibility of the customer in not creating one.

If the written questionnaire reveals that the new customer may have any of the following, an inspection will be required:

(i) Lawn irrigation systems;

(ii) Residential fire protection systems (closed loop systems will require a double check valve minimum);

(iii) Pools, saunas, hot tubs, fountains;

(iv) Auxiliary intakes and supplies--wells, cistern, ponds, streams, etc.;

(v) Home water treatment systems;

(vi) Hobbies that require extensive amounts of toxic chemicals (taxidermy, metal plating, biodiesel, ethanol production, etc.);

(vii) Any other situations or conditions listed in the manual or conditions deemed a threat by the water system.

Written questionnaires will be sent to existing residential customers to determine if potential cross-connections exist. The distribution system will be divided into five (5) segments and will be entirely surveyed within five (5) years. The distribution system will continue to be surveyed in this manner. Questionnaires that reveal potential cross-connections based on the criteria above will be inspected and a determination if backflow prevention assemblies are needed.

The system will be surveyed for residential lawn irrigation systems through questionnaires received and by secondary meters. All residential

lawn irrigation systems will require a reduced pressure principle assembly. Residential customers with pools, saunas, hot tubs not filled by a hard pipe directly or indirectly connected may be allowed to use an air gap (and may be requested to use an atmospheric vacuum breaker at the hose bibb). However, if the pool or vessels is connected directly or indirectly by a hard line, a RP is required at minimum.

Residential customers required to have backflow prevention assemblies will be informed of possible thermal expansion problems within the establishment and correction of the condition.

(c) Well system inspections. Wells drilled on properties that are supplied by a public water system, particularly those designed for chemigation and fertigation, will need to be inspected to ensure separation or the premises will require an approved assembly.

Wells that are drilled within the area of the distribution system within the last calendar year are inspected and a well user agreement is signed between the Maynardville Water Department and the customer. A list of existing wells that do not have a well user's agreement within the distribution area will be generated and ten (10) wells per year will be inspected until the entire list has been completed. Any well system that is connected directly or indirectly to the water system is required to disconnect or install a reduced pressure principle assembly. The customer will be required to sign a well user agreement if no assembly is required. It is recommended that inspections be performed on new listings within the year, and then perform inspections on existing, uninspected wells. The list is updated at the local governmental field office and is available to the water system.

New lines that are constructed in areas where residential areas have been mainly supplied by well systems are surveyed and inspected.

(3) Public education and awareness efforts. The Maynardville Water Department recognizes that it is important to inform its customers of the health hazards associated with cross-connections and to acquaint them with the program being pursued to safeguard the quality of water being distributed. The water system will seek to use every practical means available to acquaint the customers with the health hazards associated with cross-connections in an effort to get cooperation. Use of customer notification letters, annual consumer confidence report and local video and print media will be incorporated into the notification plan. Efforts will be made to have an employee, or employees, of the water system to appear before the civic clubs, PTAs, school groups, and other appropriate forums to discuss the problem of cross-connections and the program that is being pursued for their control.

Information will be provided to all customers about cross-connection control and backflow prevention by individual pamphlets or through an article in the Consumer Confidence Report (CCR) at least once per year. A brochure will be given to all new customers requesting water service describing cross-

connections and prevention of backflow. The following measures may also be used to inform customers about the need to control cross-connections:

(a) Reminders with water bills;

(b) Posters at the counter where the water bills are paid displayed one (1) month out of the year;

(c) Annual consumer confidence report;

(d) (i) Personal visits to commercial, industrial, institutional, and agricultural customers to explain the need for controlling cross-connections.

(ii) Whenever possible, any such potential customer will be informed of needed cross-connection measures in the design or construction stage.

(4) Customer's responsibility. Cross-connections, created and maintained by the customer for his convenience endanger the health and safety of all who depend upon the public water supply. Therefore, the customer who creates a cross-connection problem shall bear the expense of providing necessary backflow protection and for keeping the protective measures in good working order. This includes repair, testing, installation, etc.

(5) Enforcement. Where cross-connections are found to exist, the Maynardville Water Department will require the problem to be eliminated or isolated by a properly installed, approved backflow prevention assembly to prevent the possibility of backflow into the distribution system. Such protective measures will include a backflow prevention assembly on the customer's water service line ahead of any water outlets. Every effort will be made to secure the voluntary cooperation of the customer in correcting cross-connection hazards. If voluntary action cannot be obtained with time set forth by written notice ninety (90) days maximum for high and low hazard, fourteen (14) days maximum for high risk high hazards) to the customer, water service will be discontinued until conditions are in line with the water provider's ordinance for the protection of the health and safety of the water distribution system.

After surveys or inspections have been completed, the establishments will be contacted by written correspondence outlining any correction (adding or repairing backflow prevention devices) needed and the time schedule allowed for correction of conditions. If the conditions have not been corrected by the time allotment ninety (90) days maximum for high and low hazard, fourteen (14) days maximum for high risk high hazards), the water service will be discontinued to the establishment, along with any fines or other penalties deemed necessary by the Maynardville Water Department.

The Maynardville Water Department may give additional warnings of discontinuance and/or bring about penalties before the water service is discontinued. The time period for correction will be determined by the water provider, based on the seriousness of the hazard and risk of contamination, ranging from immediate correction or time period of up to ninety (90) days. The maximum allowable time for correction within a maximum limit of fourteen (14)

business days, preferably immediate correction. If the conditions do not satisfy the ordinance or plan within ninety (90) days, water service will be discontinued. In the case of backflow prevention devices on fire systems, it is recommended that the fire marshal be contacted before water service is discontinued, to prevent harm to anyone in case a fire occurred in a public building. The fire marshal can condemn the building, thus not allowing anyone to enter.

Water service will not be allowed to the establishment until all corrections have been made and all conditions of the ordinance have been satisfied. (Ord. #0-2012-5, June 2012)

18-404. Procedures for inspections. The Maynardville Water Department hopes that its efforts to acquaint its customers with the hazards of cross-connections will be successful to the point that the customer will try to maintain their internal water delivery system free of cross-connections. It is recognized that many customers may not recognize that they have a situation that would permit backflow into the water supply lines. Therefore, a thorough investigation will be made of all premises considered likely to have cross-connections. Such inspections will involve the customer's entire water using equipment, and other system components in an effort to locate all actual and potential cross-connections. The findings will be reported to the owner or occupant in writing along with a request for needed corrective action necessary to properly protect the public water system.

(1) Field visit procedures. During the inspection, a field sheet will be completed showing details of significant findings. The hazards which cross-connections pose will be explained fully to the persons assisting the inspection. The customer will be informed that the information gathered during the survey will be reviewed by the water system's management or engineering staff and that a written report containing any recommendations and requirements will be mailed to them as soon as possible.

(2) Reports to customers. The findings of the investigation will be summarized and a written report will be sent to the person assisting in the investigation, or the ranking management official of the establishment. Cross-connections found will be described briefly along with recommended method of correction. An effort will be made to keep the description of the findings and recommendations clear, concise and as brief as possible. The correspondence will indicate a willingness to assist the questions. The customer will be given a time limit for making the needed corrections depending (maximum of ninety (90) days) upon the seriousness of the cross-connections involved and upon the complexity and difficulty of correcting the problems.

(3) Follow-up visits and re-inspections. Follow-up visits will be made as needed to assist the customer and to assure that satisfactory progress has been made. Such visits will continue until all corrective action has been completed to the satisfaction of the water system.

(4) Installation of backflow prevention devices. Where the customer is asked to install a backflow prevention assembly, the customer will be supplied with a list of acceptable and approved assemblies. In addition, minimum acceptable installation criteria will be supplied. It will be pointed out that a unit cannot be accepted until the water system has verified that the installation fully meets the installation criteria and has been tested to verify that the assembly has a status of "passed." Such backflow prevention assemblies must be of a make, model, and orientation currently listed as acceptable by both the water system and Tennessee Department of Environment and Conservation.

(5) Technical assistance. The customer will be urged to notify the water system when they are ready to begin installing either a reduced pressure or double check valve type backflow preventer assembly. The water system cross-connection representative will visit the site to detail how the units must be installed to achieve the desired protection and to minimize maintenance and testing problems. (Ord. #0-2012-5, June 2012)

18-405. Premises requiring reduced pressure principle assemblies or air gap separation. (1) High risk high hazards. Establishments which pose significant risk of contamination or may create conditions which pose an extreme hazard of immediate concern (high risk high hazards), the cross-connection control inspector shall require immediate or a short amount of time fourteen (14) days maximum, depending on conditions, for corrective action to be taken. In such cases, if corrections have not been made within the time limits set forth, water service will be discontinued.

(2) High risk high hazards require a reduced pressure principle (or detector) assembly. The following list is establishments deemed high risk high hazard:

(a) High risk high hazards:

(i) Mortuaries, morgues, autopsy facilities;

(ii) Hospitals, medical buildings, animal hospitals and control centers, doctor and dental offices;

(iii) Sewage treatment facilities, water treatment, sewage and water treatment pump stations;

(iv) Premises with auxiliary water supplies or industrial piping systems;

(v) Chemical plants (manufacturing, processing, compounding, or treatment);

(vi) Laboratories (industrial, commercial, medical research, school);

(vii) Packing and rendering houses;

(viii) Manufacturing plants;

(ix) Food and beverage processing plants;

(x) Automated car wash facilities;

(xi) Extermination companies;

(xii) Airports, railroads, bus terminals, piers, boat docks;

(xiii) Bulk distributors and users of pesticides, herbicides, liquid fertilizer, etc.;

(xiv) Metal plating, pickling, and anodizing operations;

(xv) Greenhouses and nurseries;

(xvi) Commercial laundries and dry cleaners;

(xvii) Film laboratories;

(xviii) Petroleum processes and storage plants;

(xix) Restricted establishments;

(xx) Schools and educational facilities;

(xxi) Animal feedlots, chicken houses, and CAFOs;

(xxii) Taxidermy facilities;

(xiii) Establishments which handle, process, or have extremely toxic or large amounts of toxic chemicals or use water of unknown or unsafe quality extensively.

(b) High hazard. In cases where there is less risk of contamination, or less likelihood of cross-connections contaminating the system, a time period of ninety (90) days maximum will be allowed for corrections. High hazard is a cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, cause death, illness, and spread disease. (Ord. #0-2012-5, June 2012)

18-406. Premises allowing double check valve assemblies. Low hazard. Low hazard is a cross-connection or potential cross-connection involving any substance that would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the public water supply. Low hazards are protected by double check valve assemblies at minimum. Double check valve (and detector) assemblies used for main line protection are allowed only on Classes 1-3 fire protection systems. (Ord. #0-2012-5, June 2012)

18-407. Inspection and testing of backflow prevention assemblies.

(1) Approval of new installations. The water system will not consider the installation of assemblies to be complete until:

(a) The installation has been inspected, and approved by the water system based installation criteria; and

(b) Assembly is tested initially and has a status of "passed."

(2) Routine inspection and testing of assemblies. To assure that all assemblies are functioning properly, assemblies will be tested every twelve (12) months; by backflow prevention assembly testers with a valid certificate of competency. If an assembly is not tested within the twelve (12) month period, enforcement action will be started. In conjunction with testing the assembly, the water system representative or approved tester will investigate to determine:

(a) That cross-connections, actual or potential, have not been added ahead of the protective assemblies;

(b) The assembly meets all installation criteria; and

(c) The assembly has not been bypassed or altered in some other way to compromise the backflow protection.

All reduced pressure and double check valve backflow assemblies, including detector assemblies, utilized for the protection of the water system will be tested by a person possessing a valid certificate of competency from the state and approved by the water system in keeping with the following criteria:

(a) Immediately following installation;

(b) At least every twelve (12) months;

(c) Any time assemblies have been partially disassembled for cleaning and/or repair and;

(d) Where there is indication that the unit may not be functioning properly (i.e., excessive or continuous discharges from relief valve, chatter, or vibration of internal parts).

(3) Accepted test procedure. Tests of assemblies will be made using a 3 or 5 valve test kit that has valid annual certification in accordance to the latest approved testing procedure from the division of water supply.

(4) Official tests. Only tests performed by persons possessing a valid certificate of competency will be considered official tests by the water system. All test reports submitted must be of the type approved by the division of water supply. All parts of testing procedures are recorded accurately on the test report with a determination of status (passed or failed). Certificates of competency are not transferrable.

(5) Prior agreements for testing. Prior arrangements will be made for a mutually agreeable time for testing the assemblies prior to performing the test. In all cases, the time which water services are interrupted will be held to a minimum in order to minimize the inconvenience to the customer. The customer, upon notification by the water system, has an obligation to work out a mutually agreeable time for testing assemblies within the time allotted by the water system.

(6) Repairs. Should a protective assembly tested within the twelve (12) month timeframe, be found defective or have a status of "failed," the water system will require the assembly to be repaired promptly with manufacturer's specified parts, in accordance to manufacturer's suggested procedure, and placed in proper operating condition within a (specified) time limit (maximum ninety (90) days, fourteen (14) days for high risk high hazards). Following repairs, the assembly is to be tested again to verify that it is meeting performance standards and have a status of "passed." The owner will be held responsible for maintaining protective in a good state of repairs. The owner of an assembly needing repairs or maintenance will be permitted to do the work, if such owner is properly qualified or the owner may elect to secure the services of someone else experienced in the repair of the assemblies. (Ord. #0-2012-5, June 2012)

18-408. Parallel units. The water system may require the installation of parallel assemblies if the customer cannot readily accommodated interruptions of water service for periodic testing and repairs of the assemblies or is unwilling to cooperate in scheduling a shutdown promptly for testing during normal hours worked by water system personnel. (Ord. #0-2012-5, June 2012)

18-409. Records. (1) Good records are invaluable in the water system's efforts to safeguard the quality of water being distributed against degradation from backflow through cross-connections. Adequate records will be maintained as a part of the water system's permanent files to:

(a) Document the overall effort of the water system to properly discharge its responsibility to see that each customer receives a safe water under all foreseeable circumstances;

(b) Give a complete picture as to the current status and history of the individual premises regarding the potential for backflow, corrections made, etc.;

(c) To support enforcement action, whenever necessary, to obtain backflow protection; and

(d) Document that assemblies have been properly installed, maintained, and tested routinely.

(2) Records to be maintained by water system will include, but not necessarily be limited to the following:

(a) Master list of all establishments with assemblies used for premise isolation, including location, assembly used, make, model, size, serial number etc.;

(b) Correspondence between water system and its customers;

(c) Copy of approved plan;

(d) Copy of approved ordinance;

(e) Test reports for each assembly;

(f) Copies of certificates of competency for each tester;

(g) Copies of test kit certifications;

(h) Site inspection reports;

(i) Residential written surveys;

(j) Backflow incident reports;

(k) Records on initial surveys, recommendations, follow-up, corrective action, routine re-inspections, etc.;

(l) A file system designed to call to the attention of the cross-connection control personnel when testing and re-inspections of premises are needed; and

(m) Public education pamphlets and information. (Ord. #0-2012-5, June 2012)

18-410. Backflow contamination procedures. If contamination is caused by backflow, the Maynardville Water Department will take the following actions to protect the health of the customer:

(1) Isolate the lines containing any contaminant from the distribution system;

(2) Inform customers with contaminated lines not to consume or use the water;

(3) Report contamination to the Knoxville field office;

(4) Determine and separate the cross-connection allowing the backflow and contamination;

(5) Remove contamination from lines;

(6) Test and ensure that lines meet division of water supply regulations for safe water;

(7) Return service to affected customers once water is safe;

(8) Document the details of the incident including cause, isolation, and correction, and send report to Knoxville field office;

(9) Continue to survey and inspection system for similar situations that may allow backflow. (Ord. #0-2012-5, June 2012)

18-411. Modifications to plan. This plan may be modified from time to time to meet the needs of the utility and to meet the states requirements. This plan and chapter will be reviewed by the water system every five (5) years to determine if the existing plan meets requirements set forth by the division of water supply and that it promotes an ongoing program. The manager shall be authorized to modify, as needed, this plan without the approval of the water system's governing body. The manager shall report any modifications to this plan to the board for their information, in a timely manner. The manager shall also advise the Knoxville field office of any changes to this plan for their review and comments. (Ord. #0-2012-5, June 2012)

CHAPTER 5

INDUSTRIAL PRETREATMENT ORDINANCE[1]

SECTION

18-501. General provisions. (1) Purpose and policy. This ordinance sets forth uniform requirements for users of the wastewater collection system and the wastewater treatment facilities (wastewater system) for the city for compliance with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this ordinance are:

(a) To prevent the introduction of pollutants into the city's wastewater control system that will interfere with the operation of the city's wastewater control system;

(b) To prevent the introduction of pollutants into the city's wastewater control system which will pass through the city's wastewater control system, inadequately treated, into receiving waters or otherwise be incompatible with the city's wastewater control system;

(c) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

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[1]Municipal code reference
Plumbing code: title 12, chapter 2.

(d) To protect city's wastewater control system personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

(e) To improve the opportunity to recycle and reclaim wastewater and sludge from the city's wastewater control system;

(f) To provide for fees for excess strength of wastewater discharged to the city's wastewater control system.

(g) To enable the City of Maynardville to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the city's wastewater control system is subject.

This ordinance shall apply to all industrial and/or any significant users of the city's wastewater control system. The ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring,. compliance and enforcement activities; establishes administrative review and enforcement procedures, requires industrial user reporting, and provides for fees for excess strength of waste discharged to the city's wastewater control system.

(2) Administration. Except as otherwise provided herein, the city manager of the city or his designee shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the city manager may be delegated by the city manager to other personnel.

(3) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings thereinafter designated.

(a) "Act" or "the Act" means the Federal Water Pollution Control act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

(b) "Approval authority" the State of Tennessee and/or United States of America Environmental Protection Agency, Region IV.

(c) "Authorized representative of the industrial user" means:

(i) If the industrial user is a corporation, authorized representative shall mean:

(A) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

(B) The manager of one (1) or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;

(iii) If the industrial user is a federal, state or local governmental facility, an authorized representative shall mean a superintendent or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;

(iv) The individuals described in subsections (i) through (iii) above may designate another authorized representative(s) 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 pretreatment program administrator.

(d) "Biochemical Oxygen Demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade (sixty-eight (68) degrees fahrenheit) expressed in milligrams per liter.

(e) "Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by the United States of America Environmental Protection Agency in accordance with sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR chapter I., subchapter N, parts 403-471.

(f) "City" means the City of Maynardville or the City Commission of the City of Maynardville.

(g) "Color" means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

(h) "Composite sample" means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

(i) "Cooling water"means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(j) "Control authority" means the "approval authority," defined hereinabove; or the superintendent if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(k) "Direct discharge"means the discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(l) "Environmental Protection Agency" or "EPA" means the United States of America Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the regional water management division director or other duly authorized official of said agency.

(m) "Existing source" means any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

(n) "Grab sample" means an individual sample collected over a period of time not exceeding fifteen (15) minutes and consistent with that procedure described in 40 CFR 403 appendix E.

(o) "Holding tank waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(p) "Indirect discharge" or "discharge" means the introduction of non-domestic pollutants into the city's wastewater control system from any non-domestic source regulated under section 307(b), (c) or (d) of the Act, including holding tank waste.

(q) "Industrial user" or "user" means a source of indirect discharge.

(r) "Interference" means a discharge which alone or in conjunction with a discharge or discharges from other sources:

(i) Inhibits or disrupts the city's wastewater system, its treatment processes or operations or its sludge processes, use or disposal; and

(ii) Therefore is a cause of a violation of the city's wastewater system NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including title 11 commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(s) "Maximum allowable discharge limit" means the maximum concentration (or loading) 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.

(t) "Medical waste" means isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

(u) "Monthly average" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

(v) "National categorical pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) which applies to a specific category of industrial users.

(w) "National prohibitive discharge standard" means any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

(x) "National Pollution Discharge Elimination System" or "NPDES permit" means a permit issued pursuant to section 402 of the Act (33 USC 1342).

(y) "New source" means:

(i) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:

(A) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) 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 if integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(ii) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections (i)(A), (B) or (C)

above but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(A) Begun, or caused to begin as part of a continuous onsite construction program

(1) Any placement, assembly, installation of facilities or equipment, or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) 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.

(z) "Non-contract cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(aa) "Pass-through" means a discharge which exits the city's wastewater system into waters of the United States of America 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 requirements of the city's wastewater system NPDES permit (including an increase in the magnitude or duration of a violation).

(bb) "Person" means 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. This definition includes all federal, state or local governmental entities.

(cc) "pH" means the negative log of the hydrogen ion concentration, expressed in standard units.

(dd) "Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

(ee) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the wastewater system. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(ff) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

(gg) "Pretreatment standards" or "standards" means pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.

(hh) "Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-502(1) of this chapter.

(ii) "Publicly owned treatment works" or "wastewater system" means defined by section 212 of the Act (33 U.S.C. 1292), which is owned by the state or municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

(jj) "Wastewater treatment plant" means that portion of the city's wastewater control system designed to provide treatment to wastewater.

(kk) "Shall" is mandatory; "may" is permissive or discretionary.

(ll) "Septic tank waste" means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(mm) "Sewage" means human excrement and gray water (household showers, dishwashing operations, etc.)

(nn) "Signification industrial user" (i) Except as provided in subsection (ii), the term significant industrial user means:

(A) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter 1, subchapter N; and

(B) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of processed wastewater to the city (excluding sanitary, non-contact, cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the city's treatment

plants; 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 city's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6).

(ii) Upon a finding that an industrial user meeting the criteria in paragraph (i)(B) has no reasonable potential for adversely affecting the city's operation or for violating any pretreatment standard or requirement, the control authority (as defined in 40 CFR 403.12(a)) may at any time, on its own initiative or in response to a petition received from an industrial user or city, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

(oo) "Slug discharge" means any discharge of water or wastewater of a non-routine, episodic nature, including but not limited to, an accidental spill or non-customary batch discharge.

(pp) "Standard Industrial Classification (SIC) Code" means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget, 1972.

(qq) "State" means State of Tennessee.

(rr) "Storm water" means any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

(ss) "Superintendent" means the person hired by the city to supervise the operation of the city's wastewater system.

(tt) "Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

(uu) "Toxic pollutant" means one (1) of one hundred twenty six (126) pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of section 307 (33 U.S.C. 1317) of the Act.

(vv) "Treatment plant effluent" means any discharge of pollutants from the city's wastewater system into waters of the State of Tennessee.

(ww) "User" means any person who contributes, causes, or permits the contribution of wastewater into the city's wastewater system.

(xx) "Wastewater" means liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the city's wastewater system.

(yy) "Wastewater treatment plant" or "Treatment plant" means that portion of the city's wastewater control system designed to provide treatment of sewage and industrial waste.

(zz) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(4) Abbreviations. The following abbreviations shall have the designated meanings:

BOD - Biochemical Oxygen Demand
CFR - Code of Federal Regulations
COD - Chemical Oxygen Demand
EPA - US Environmental Protection Agency
ERG - Enforcement Response Plan
l - Liter
mg - Milligrams
mg/1 - Milligrams per liter
NPDES - National Pollutant Discharge Elimination System
O&M - Operation and Maintenance
POTW - Publicly Owned Treatment Works
RCRA - Resource Conservation and Recovery Act
SIC - Standard Industrial Classification
SWDA - Solid Waste Disposal Act, 42 USC 6901, et. seq.
TSS - Total Suspended Solids
USC - United States Code (Ord. #0-2005-10, Dec. 2005)

18-502. General sewer use requirements. (1) Prohibited discharge standards. No industrial user shall introduce or cause to be introduced into the city's wastewater control system any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all industrial users of the wastewater control system whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement. Furthermore, no industrial user may contribute the following substances to the wastewater control system:

(a) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and wastewater control system, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.

(b) Any wastewater having a pH less than 5.0 or more than 10.0, unless authorized by the control authority, or otherwise causing corrosive structural damage to the wastewater control system or equipment, or endangering city personnel. No wastewater having a pH

of less than 5.0 shall be authorized and no wastewater having a pH of more than 12.5 shall be authorized, since this would be considered a hazardous waste under section 40 CFR 261.22 of the Act.

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the wastewater control system resulting in interference.

(d) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the wastewater control system, or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.

(e) Any heated wastewater which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).

(f) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.

(g) Any pollutants which result in the presence of toxic gases, vapors or fumes within the wastewater system in a quantity that may cause acute worker health and safety problems.

(h) Any trucked or hauled pollutants, except at discharge points designated by the city in accordance with § 18-503(4).

(i) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.

(j) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the city's NPDES permit or which adversely affects aquatic life in the receiving waters.

(k) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the control authority in compliance with applicable state or federal regulations.

(l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, non-contact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the control authority.

(m) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.

(n) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the wastewater control system.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the wastewater control system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the wastewater control system.

(2) Federal categorical pretreatment standards. The national categorical pretreatment standards found at 40 CFR chapter 1, subchapter N, parts 405-471 are hereby incorporated.

(3) State requirements. Tennessee Industrial State Pretreatment Standards are also incorporated into this chapter.

(4) Specific pollutant, limitations. The following pollutant limits are established to protect against pass-through and interference. No person shall discharge wastewater containing in excess of the following maximum allowable discharge limits and maximum monthly average limits.

Regulated parameter	**Maximum for any one day (mg/L)**	**Maximum for monthly avg. (mg/L)**
Copper	1.0	0.50
Chromium	1.0	0.38
Nickle	0.9	0.26
Cadmium	0.06	0.02
Lead	0.6	0.22
Mercury	4.58 E-07	4.85 E-07
Silver	0.06	0.03
Zinc	2.0	1.05
Cyanide	0.035	0.016
Toluene	0.6	0.21
Benzene	0.3	0.013
1, 1, 1, Trichloroethane	0.70	0.25
Ethylbenzene	0.12	0.04
Carbon Tetrachloride	0.045	0.015

Chloroform	0.6	0.22
Tetrachloroethylene	0.4	0.14
Trichloroethylene	0.3	0.10
1, 2 trans Dichloroethylene	0.02	0.0075
Methylene chloride	0.3	0.10
Phenols	1.2	0.45
Napthalene	0.4	0.0125
Phthalates	0.60	0.26
pH	6.0 - 10.0	n/a

(a) Total Toxic Organics (TTOs) - Limits for those parameters on the TTO list will be considered on an individual case by case basis, by the control authority, for those not regulated in the 40 CFR Regulations of the Act for categorical and/or non-categorical industries, considering such factors including but not limited to: concentration, flow, mass loading to the wastewater system, and other considerations necessary to prevent pass-through and protect the wastewater system as set forth by the control authority.

(b) Any wastewater containing over 250 mg/1 of BOD or total suspended solids will be surcharged at the appropriate rate, by the methods listed in§ 18-515, or pretreated to levels so as not to cause obstruction to the sanitary sewer system or upsets or overloading at the wastewater system. The surcharge is not to be used as a substitute for fines issued, for wastewater system upsets or overloading or sanitary sewer obstruction.

(c) The oil and grease listed in this section is petroleum or mineral oil products. Concentrations apply at the point where the industrial waste is discharges to the wastewater system. All concentrations for metallic substances are for "total" metal unless indicated otherwise. At its discretion, the control authority may impose mass limitations in addition to or in place of the concentration based limitations above.

(5) Wastewater system right of revision. The city reserves the right to establish, by industrial wastewater discharge permits issued through the city, more stringent standards or requirements on discharges to the wastewater control system if deemed necessary to comply with the objectives presented in § 18-501(1) of this chapter or the general and specific prohibitions in

§§ 18-502(1), 18-502(2), 18-502(3), and § 18-502(4) of this chapter and parameters not listed in § 18-502(4).

(6) Special agreement. The city reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the wastewater control system through the control authority. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

(7) Dilution. No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The control authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Ord. #0-2005-10, Dec. 2005)

18-503. Pretreatment of wastewater. (1) Pretreatment facilities. Industrial users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in § 18-502(1) above within the time limitations specified by the EPA, the state, or the control authority whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the control authority for review, and shall be acceptable to the control authority before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the wastewater system under the provisions of this ordinance. The control authority shall be notified forty-eight (48) hours prior to start-up of new or modified wastewater pretreatment facilities. Any subsequent changes in the wastewater pretreatment facilities or method of operation shall be reported to and be acceptable to the superintendent.

(2) Accidental discharge/slug control plans. The control authority may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two (2) years the control

authority shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges

(b) Description of stored chemicals.

(c) Procedures for immediately notifying the city's wastewater control system of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in § 18-501(1) of this chapter.

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(3) Tenant responsibility. Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

(4) Hauled wastewater. (a) Sceptic tank waste may be accepted into the wastewater control system at a designated receiving structure within the treatment plant area, and at such times as are established by the superintendent, provided such wastes do not violate § 18-502 of this chapter or any other requirements established or adopted by the city.

(b) The discharge of hauled industrial wastes and/or wastewater as "industrial sewage" requires prior approval and a wastewater discharge permit from the city. The superintendent shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation or cause pass-through of the wastewater control system or adversely affect the quality of the wastewater control system sludge. Waste haulers are subject to all other sections of this ordinance.

(5) Underground storage tank wastewater. Wastewater from contaminated underground storage tank sites within the legal boundaries of the city may be discharged to the wastewater control system only when and if a permit application, as prescribed by the control authority, is submitted and a special "underground storage tank wastewater discharge permit," as prescribed by the control authority, is issued to the owner and or tenant of the property at which the contaminated wastewater is generated. All other aspects of this ordinance will be in force for these permits also.

(6) Vandalism. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the city property (i.e., automatic samplers and other field equipment). Any person found in violation of this requirement shall be subject to the sanctions set out in §§ 18-510 through 18-512, below. (Ord. #0-2005-10, Dec. 2005)

18-504. Wastewater discharge permit eligibility. (1) Wastewater survey. When requested by the control authority, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The control authority is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of the ordinance.

(2) Wastewater discharge permit requirement. (a) It shall be unlawful for any significant industrial user to discharge wastewater into the city sanitary sewer without first obtaining a wastewater discharge permit from the control authority. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in §§ 18-510 through 18-512. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(b) The control authority may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(3) Wastewater discharge permitting existing connections. Any significant industrial user which discharges industrial waste into the wastewater control system prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the city for a wastewater discharge permit in accordance with § 18-504(6) below, and shall not cause or allow discharges to the wastewater control system to continue after one hundred eighty (180) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the control authority, or in the case, a valid permit exists and does not violate any part of this ordinance, shall not have to re-apply until the permit expiration date.

(4) Wastewater discharge permitting new connections. Any significant industrial user proposing to begin or recommence discharging industrial wastes into the wastewater system must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this

wastewater discharge permit must be filed at least sixty (60) days prior to the date upon which any discharge will begin,

(5) Wastewater discharge permitting extra jurisdictional industrial users. (a) Any existing significant industrial user located beyond the city limits and discharging into the city wastewater control system shall submit a wastewater discharge permit application, in accordance with § 18-504(6) below, within ninety (90) days of the effective date of this ordinance, or in the case, a valid permit exists and does not violate any part of this ordinance, shall not have to re-apply until the permit expiration date. New significant industrial users located beyond the city limits shall submit such applications to the control authority at least sixty (60) days prior to any proposed discharge into the wastewater control system.

(b) Alternately, the control authority may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

(6) Wastewater discharge permit application contents. In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by § 18-506(1)(b) of this chapter. The control authority shall approve a form to be used as a permit application. In addition, the following information may be requested:

(a) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the wastewater system.

(b) Number and type of employees, hours of operation, and proposed or actual hours of operation of the industry.

(c) Each product produced by type, amount, process, and rate of production.

(d) Type and amount of raw materials processed (average and maximum per day).

(e) The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(f) Time and duration of the discharge.

(g) The amount, storage of, and disposal of any hazardous waste on site, or generated by the industry.

(h) Any other information as may be deemed necessary by the control authority to evaluate the wastewater discharge permit application.

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

(7) Application signatories and certification. All wastewater discharge permit applications and industrial user reports submitted to the city must contain the following certification statement and be signed by an authorized representative of the industrial user.

> "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 fines and imprisonment for knowing violations."

(8) Wastewater discharge permit decisions. The control authority will evaluate the data furnished by the industrial user and may require additional information. Within sixty (60) days of receipt of a completed wastewater discharge permit application, the control authority will determine whether or not to issue a wastewater discharge permit. The control authority may deny any application for a wastewater discharge permit. (Ord. #0-2005-10, Dec. 2005)

18-505. Wastewater discharge permit issuance process.

(1) Wastewater discharge permit duration. Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the control authority. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Wastewater discharge permit contents. Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the control authority to prevent pass-through, interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the wastewater system.

(a) Wastewater discharge permits must contain the following conditions:

(i) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years.

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification and approval from the control authority, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(iii) Effluent limits applicable to the user based on applicable standards in federal, state, and local law.

(iv) Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(v) Statement of applicable civil and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(vi) A copy of the city's "enforcement response plan."

(b) Wastewater discharge permits may contain, but need not be limited to, the following:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(ii) Limits on the instantaneous, daily and monthly average, and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

(iii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(iv) Development and implementation of spill control plans, total toxic organics control plans, or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.

(v) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the wastewater system.

(vi) The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the wastewater control system.

(vii) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

(viii) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

(ix) Other conditions as deemed appropriate by the control authority to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

(3) Wastewater discharge permit appeals. Any person, including the industrial user, may petition the control authority to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

(a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(c) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(d) Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.

(e) Aggrieved parties may seek an appeal under § 18-510(10)(b). Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with Circuit Court or Chancery Court for Union County.

(4) Wastewater discharge permit modification. The control authority may modify the wastewater discharge permit for good cause including, but not limited to, the following:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(c) A change in the wastewater control system that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the city wastewater control system personnel, or the receiving waters;

(e) Violation of any terms or conditions of the wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance categorical pretreatment standards pursuant to 40 CFR 403.13;

(h) To correct typographical or other errors in the wastewater discharge permit;

(i) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(5) Wastewater discharge permit transfer. Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the control authority and the control authority approves the wastewater discharge permit transfer. The notice to the control authority must include a written certification by the new owner and/or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes.

(b) Identifies the specific date on which the transfer is to occur.

(c) Acknowledges full responsibility for complying with the existing wastewater discharge permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

(6) Wastewater discharge permit revocation. Wastewater discharge permits may be revoked for the following reasons:

(a) Failure to notify the city of significant changes to the wastewater prior to the changed discharge.

(b) Failure to provide prior notification to the city of changed condition pursuant to § 18-506(5).

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.

(d) Falsifying self-monitoring reports.

(e) Tampering with city monitoring equipment.

(f) Refusing to allow the city timely access to the facility premises and records.

(g) Failure to meet effluent limitations.

(h) Failure to pay fines.

(i) Failure to pay sewer charges.

(j) Failure to meet compliance schedules.

(k) Failure to complete a wastewater survey or the wastewater discharge permit application.

(l) Failure to provide advance notice of the transfer of a permitted facility.

(m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voidable upon non-use, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon issuance of a new wastewater discharge permit

(7) Wastewater discharge permit reissuance. A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with § 18-504.6

a minimum of sixty (60) days prior to the expiration of the industrial user's existing wastewater discharge permit. (Ord. #0-2005-10, Dec. 2005)

18-506. Reporting requirements. (1) Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the wastewater system, shall be required to submit to the city a report which contains the information listed in subsection (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in subsection (b) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(b) The industrial user shall submit the information required by this section including:

(i) Identifying information. The name and address of the facility including the name of the operator and owners.

(ii) Wastewater discharge permits. A list of any environmental control wastewater discharge permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the wastewater system from the regulated processes.

(iv) Flow measurement information showing the measured average, or estimated, if approved by the control authority, daily and maximum flow, in gallons per day, to the wastewater system from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(v) Measurement of pollutants. (A) Identify the categorical pretreatment standards applicable to each regulated process.

(B) Submit the results of sampling and analysis identifying the nature and concentration (and/or mass,

where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-506(10).

(C) Sampling must be performed in accordance with procedures set out in § 18-506(11).

(vi) Certification. A statement reviewed by the industrial user's 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.

(vii) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standard; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. 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 § 18-506(2) of this chapter.

(viii) All baseline monitoring reports must be signed and certified in accordance with § 18-504(7).

(2) Compliance schedule progress report. The following conditions shall apply to the schedule required by § 18-506(13). 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 hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the control authority no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, (and, if appropriate) the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the control authority.

(3) Report 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 wastewater control system, any industrial user subject to such pretreatment standards and requirements shall submit to the control authority a report containing the information described in § 18-506(1)(b)(iv)--(vi). For industrial users subject to equivalent mass or concentration limits established in accordance with the procedure in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial 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 industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-504(7).

(4) Periodic compliance reports. (a) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the control authority but in no case less than four (4) times per year (in April, in July, in October, in January) each covering the previous three (3) month period, submit a report indicating the nature and concentration of pollutants in the discharge which are limited ly such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 18-501(7).

(b) All wastewater samples must be representative of the industrial 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 an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(c) If an industrial user subject to the reporting requirements in and of this section monitors any pollutant more frequently than required by the wastewater control system, using the procedures prescribed in § 18-506(11) and analytical methods prescribed in § 18-506(10) of this chapter, the results of this monitoring shall be included in the report.

(d) Periodic compliance reports may be waived by the control authority if the city is at least monitoring the discharge quarterly, and no process wastewater is discharged to the city.

(5) Report of changed conditions. Each industrial user is required to notify the control authority of any planned significant changes to the industrial 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 control authority may require the industrial 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 § 18-504(6).

(b) The control authority may issue a wastewater discharge permit under § 18-504(8) or modify an existing wastewater discharge permit under § 18-505(4).

(c) No industrial user shall implement the planned changed conditions(s) until and unless the control authority has responded to the industrial user's notice.

(d) For purposes of this requirement flow increases of twenty-five percent (25%) or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

(6) Reports of potential problems. (a) In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the wastewater control system (including a violation of the prohibited discharge standards in § 18-502(1) of this chapter), it is the responsibility of the industrial user to immediately telephone and notify the city of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

(b) Within five (5) days following such discharge, the industrial user shall, unless waived by the control authority, submit a detailed written report describing the causes of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the wastewater control system, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.

(c) Failure to notify the city of potential problem discharges shall be deemed a separate violation of this ordinance.

(d) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (a) above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

(7) Reports from non-significant industrial users. All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the control authority may require.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by an industrial user indicates a violation, the industrial user must

notify the control authority within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the report to the control authority within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the city performs monitoring at the industrial user at least once a month, or if the city performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling, or if the industrial user's regular monitoring activity will result in samples being taken within thirty (30) days of the industry becoming aware of the violation, unless, directed by the control authority to do so.

(9) Notification of the discharge of hazardous waste. (a) Any industrial user who commences the discharge of hazardous waste shall notify the city, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the wastewater system 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 industrial user discharges more than one hundred (100) kilograms two hundred twenty pounds (220 lbs.), of such waste per calendar month to the wastewater control system, the notification shall also contain the following information to the extent such information is known and readily available to the industrial 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 eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under § 18-506(5), above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of §§ 18-506(1), (3), and (4), above.

(b) Dischargers are exempt from the requirements of § 18-506(1) of this chapter during a calendar month in which they discharge no more than fifteen (15) kilograms (thirty three (33) pounds) of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). A discharge of more than fifteen (15) kilograms (thirty three (33) pounds) of non-acute 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 industrial 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 industrial user must notify the city, the EPA Regional Waste Management 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 industrial 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) All industries permitted by the city shall make a one (1) time notification to the control authority on the "hazardous waste notification form" stating if the company is subject to the reporting conditions in § 18-506(9)(a) and (b).

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or reports shall be performed in accordance with the techniques prescribed in 40 CFR part 136, 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, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(11) Sample collection. (a) Except as indicated in subsection (b), below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the control authority may authorize the use of time proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with daily maximum discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(c) Samples should be taken for federal 40 CFR limits of the Act, for categorical industries, 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 concentration necessary to allow use of the combined wastestream formula to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit

has been calculated, this adjusted limit along with the supporting data shall be submitted to the city.

(12) Determination of noncompliance. The control authority may use a grab sample(s) to determine noncompliance with pretreatment standards.

(13) Timing. Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, the date of receipt of the report shall govern.

(14) Record keeping. Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance. 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 compliance with this ordinance, or where the industrial user has been specifically notified of a longer retention period by the control authority. (Ord. #0-2005-10, Dec. 2005)

18-507. Compliance monitoring. (1) Inspection and sampling. The control authority shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the control authority or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

(b) The city shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) The control authority may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the control authority and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.

(e) Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this ordinance. In addition, the IU must take precautions to ensure the safety of city personnel during pretreatment program activities on the IU's premises.

(2) Search warrants. If the control authority and/or his representative has been refused access to a building, structure or property or any part thereof, and if the control authority and/or his representative has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and where of the community, then upon application by the city attorney, to the chancery court or circuit court, the city may seek a search and/or seizure warrant describing therein the specific location subject to the warrant. The request by the city shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the control authority accompanied by a uniformed police officer. In the event of an extreme emergency affecting public health and safety, inspections shall be made without the issuance of a warrant. (Ord. #0-2005-10, Dec. 2005)

18-508. Confidential information. Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs, and from city inspection and sampling activities, shall be available to the public without restriction--unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the control authority, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program. and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. (Ord. #0-2005-10, Dec. 2005)

18-509. Publication of industrial users in significant noncompliance. The city shall publish annually, in the largest daily newspaper published in the municipality where the wastewater control system is located, a list of the industrial users which, during the previous twelve (12)

months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a rolling six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(2) Technical Review Criteria (TRC) violations, determined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a rolling six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (§ 18-501(4) for BOD, TSS, fats, oils and grease, and § 18-501(2) for all other pollutants except pH);

(3) Any other discharge violation that the control authority believes has caused, along or in combination with other discharges, interference or pass-through (including endangering the health of city personnel or the general public);

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violation(s) which the city determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. #0-2005-10, Dec. 2005)

18-510. Administrative enforcement remedies. (1) Enforcement Response Plan (ERP). The control authority of the city shall prepare an Enforcement Response Plan (ERP) to insure that the requirements of 40 CFR part 403 of the Clean Water Act will be met. The ERP shall outline various administrative actions the control authority may take for various pretreatment violations. The maximum penalty shall be ten-thousand dollars ($10,000.00) per violation. The control authority shall review and update, on an annual basis, any changes needed to insure compliance with the federal, state and local pretreatment regulations as listed in the act and this ordinance.

(2) Notification of violation. Whenever the control authority finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the

control authority or his agent may serve upon said user a written notice of violation. Within fifteen (15) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the control authority. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without trust issuing a notice of violation. Degrees of violation are listed in the city "Enforcement Response Plan" (ERP). The Notice of Violation (NOV) is in the form of a letter as listed in the ERP.

(3) Consent orders. The superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as the administrative orders issued pursuant to §§ 18-510(4) and (5) below and shall be judicially enforceable. The consent orders are in the form of administrative orders as listed in the city enforcement response plan.

(4) Show cause hearing. The control authority may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the control authority 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 such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such 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 a prerequisite for taking any other action against the user.

(5) Compliance orders. When the control authority finds that a user has violated or continues to violate the ordinance, wastewater discharge permit or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time stated, 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. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user. The compliance orders are in the form of enforcement compliance schedules, issued by the city, through the city's enforcement response plan.

(6) Cease and desist orders. When the control authority finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the control authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(7) Administrative penalties. (a) Notwithstanding any other section of this ordinance, any user that is found to have violated any provision of this ordinance, its wastewater discharge permit, and orders issued hereunder, or any other pretreatment standard or requirements may be penalties in an amount not to exceed ten thousand dollars($10,000.00) as set forth in the enforcement response plan. Such penalties shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines may be assessed for each day during the period of violation.

(b) Assessments may be added to the user's next scheduled sewer service charge and the superintendent shall have such other collection remedies as may be available for other service charges and fees.

(c) Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance and interest shall accrue thereafter at a rate of five percent (5%) per month. A lien against the individual user's property will be sought for unpaid charges, fines, and penalties.

(d) Users desiring to dispute such fines must file a written request for the superintendent to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit the superintendent shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to

the industrial user. The superintendent may add the costs of preparing administrative enforcement actions such as notices and orders to the fine.

(e) Issuance of an administrative tine shall not be a prerequisite for taking any other action against the user.

(8) Emergency suspensions. The control authority may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The control authority may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the wastewater system, or which presents or may present an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the control authority shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the wastewater control system, its receiving stream, or endangerment to any individuals. The control authority shall allow the uses to recommence its discharge when the user has demonstrated to the satisfaction of the control authority that the period of endangerment has passed, unless the termination proceedings sct forth in § 18-510(9) are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the control authority, prior to the date of any show cause or termination hearing under §§ 18-510(4) and (9).

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(9) Termination of discharge. In addition to those provisions in § 18-505(6) of this chapter, any user that violates the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

(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 § 18-502 of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 18-510(4) of this chapter why the proposed action should not be taken.

(10) Appeals. (a) Any user affected by any decision, action or determination, including cease and desist orders, made by the control authority, interpreting or implementing the provisions of this ordinance, may file with the control authority a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

(b) If the ruling made by the control authority is unsatisfactory to the person requesting reconsideration, he may, within ten (10) days after notification of city action, tile a written appeal to the wastewater control system's sewer use board. The written appeal shall be heard by the board within thirty (30) days from the date of filing. The board shall make a final ruling on the appeal within thirty (30) days of the close of the meeting. The control authority's decision, action, or determination shall remain in effect during such period of reconsideration. (Ord. #0-2005-10, Dec. 2005)

18-511. Judicial enforcement remedies. (1) Injunctive relief. Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the control authority may petition the Circuit or Chancery Court for Union County through the city attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(2) Civil penalties. (a) Any user which has violated or continues to violate this ordinance, any order or wastewater discharge permit hereunder, or any other pretreatment standard or requirement shall be liable to the control authority for a maximum civil penalty of ten thousand dollars ($10,000.00) per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The control authority may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited

to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

(3) Remedies nonexclusive. The election of or selection of any remedy specified in this ordinance or the election of or selection of any remedy not specified by this ordinance is not exclusive of any other remedies authorized or specified by this ordinance or by general law. The city reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's Enforcement Response Plan (ERP). However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one (1) enforcement action against any noncompliant user. These actions may be taken concurrently. (Ord. #0-2005-10, Dec. 2005)

18-512. Supplemental enforcement action--liability insurance. The control authority may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any orders, or a previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the wastewater system caused by its discharge. (Ord. #0-2005-10, Dec. 2005)

18-513. Affirmative defenses to discharge violations. (1) Upset.

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities. lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c) are met.

(c) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating lots, or other relevant evidence that:

(i) An upset occurred and the industrial user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(iii) The industrial user has submitted the following information to the city's wastewater control system within twenty four (24) hours of becoming aware of the upset (if this information is provided verbally, a written submission must be provided within five (5) days):

(A) A description of the indirect discharge and cause of noncompliance

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue

(C) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(2) General/specific prohibitions. An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in § 18-502(1) of this ordinance if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

(a) A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass-through or interference, or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) Bypass. (a) (i) "Bypass" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

(ii) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (3) and (4) of this section.

(c) (i) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the city, at least ten (10) days before the date of the bypass, if possible.

(ii) An industrial user shall submit verbal notice of an unanticipated bypass that exceeds applicable pretreatment standards to the city within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the verbal report has been received with twenty-four (24) hours.

(d) (i) Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The industrial user submitted notices as required under subsection (c) of this section.

(ii) The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three conditions listed in subsection (4)(a) of this section. (Ord. #0-2005-10, Dec. 2005)

18-514. Metered/estimated wastewater volume. (1) Metered water supply. User charges and fees shall be based upon the total amount of water used from all sources unless, in the opinion of the control authority, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the control authority.

(2) Metered wastewater volume and metered diversions. For users where, in the opinion of the control authority, a significant portion of the water received from any metered source does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the user charges and fees will be applied against the volume of water discharged from such premises into the community sewer. Written notification and proof of the diversion of water must be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the control authority and at the user's expense. Such meters may measure either the amount of wastewater discharged or the amount of water divested. Such meters shall be tested for accuracy at the expense of the user when deemed necessary by the control authority.

(3) Estimated wastewater volume. (a) Users without source meters. For users where, in the opinion of the control authority, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the control authority. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.

(b) Users with source meters. For users who, in the opinion of the control authority, divest a significant portion of their flow from a sanitary sewer, the user charges may be based upon an estimate of the volume prepared by the user, provided the user obtains wastewater discharge authorization and pays the applicable user charges and fees. The estimate must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water

use necessary to estimate the wastewater volume discharged. (Ord. #0-2005-10, Dec. 2005)

18-515. Surcharge costs. (1) Each person discharging wastewater into the city's sanitary sewers shall be subject to a surcharge, in addition to the regular sewage service charge, based on the biochemical oxygen demand (BOD) and the Suspended Solids (SS) content of the wastes, if the wastes have a concentration higher than 250 mg/l BOD and/or 250 mg/l of SS.

(a) Biochemical oxygen demand - 250 mg/l.

(b) Suspended solids - 250 mg/l.

(2) Sampling and testing for surcharges or use charges. The discharged wastewater will be sampled during each sewage billing period for the minimum of a one (1) day period (twenty-four (24) continuous hours) by means of a composite sample. An extended sampling period of up to one (1) week (seven (7) continuous days) or reduction may be requested to enable the gathering of a sample representative of a company's wastewater. The extension or reduction of the sampling period beyond the initial one (1) day sampling period may be requested by either the sewer user involved or the city. If an extended sampling period is requested, the parameter values used to calculate the surcharge will be the arithmetical average of the individual values. In the event a company or industry has multiple discharges of wastewater, each discharge shall be sampled according to quality. The volume of each discharge shall be determined by actual measurement or by means of process usage. If significant process changes are made to affect quality of any discharge, resampling may be requested by either the sewer user involved or the city.

(3) The wastewater sample shall be measured for the following parameters: Biochemical oxygen demand (BOD), and suspended matter or solids (SS). These tests shall be made in accordance with the latest editions of Standard Methods for the Examination of Water and Wastewater or by an approved EPA method.

(4) Computation of surcharge. The excess pounds of BOD and of suspended solids will each be computed by multiplying the sewage billing volume measured in units of one hundred (100) cubic feet for the current sewage billing period by the factor 0.006238, and then multiplying the differences between the concentration measured in milligrams per liter of the BOD and of the suspended solids, respectively, in the customer's wastewater and the allowed concentrations set out above, resulting in the pounds of each constituent. The surcharge of each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge. (Ord. #0-2005-10, Dec. 2005)

18-516. Miscellaneous provisions. (1) Damaged facilities. When a discharge of wastes causes an obstruction, damage, or any other impairment to the wastewater control system, the city may assess a charge against the user for

the work required to clean and/or repair the sanitary sewer system and/or the wastewater control system, and add such charge or charges to the user's charges and fees.

(2) Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

(3) Conflicts. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance, are hereby repealed to the extent of the inconsistency or conflict. (Ord. #0-2005-10, Dec. 2005)

18-517. Industrial sewer connection application. To the city of Maynardville. The undersigned being the _____ of the property located at _____ does hereby request a permit to _____ an industrial sewer connection serving _____, which company is engaged in _____ at said location.

(1) A plan of the property showing accurately all sewers and drains now existing is attached hereunto as Exhibit "A."

(2) Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as Exhibit "B."

(3) A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge, representative analyses, and compliance with any applicable pretreatment standard or requirements, is attached hereunto as Exhibit "C."

(4) The name and address of the person or firm who will perform the work covered by this permit is _____.

In consideration of the granting of this permit the undersigned agrees:

(1) To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the city.

(2) To accept and abide by all provisions of Ordinance No. ___ of the city and all other pertinent ordinance or regulations that may be adopted in the future.

(3) To operate and maintain any waste pretreatment facilities, as may be required as a condition of the acceptance into the wastewater treatment system of the industrial wastes involved, in an efficient manner at all times, and at no expense to the city.

(4) To cooperate at all times with the city and its representatives in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.

(5) To notify the city immediately in the event of any accident, or other occurrence that occasions contribution to the wastewater treatment system of any wastewater or substances prohibited or not covered by this permit.

Date: _____ Signed: _____

$_____ inspection fee paid _____

Application approved and permit granted:

Date: _____ Signed: _____

(Ord. #0-2005-10, Dec. 2005)

CHAPTER 6

CHARGES AND FEES[1]

SECTION

18-601. 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, debt service, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants. (Ord. #0-2005-10, Dec. 2005)

18-602. Types of charges and fees. The charges and fees as established in the city's schedule of fees, rates and charges may include, but not be limited to:

(1) Sewer use charges;

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[1]Municipal code references
Plumbing code: title 12.
Water and sewer system administration: title 18.
Wastewater treatment: title 18.

(2) Sewer connection fees;
(3) Industrial extra strength surcharge fees;
(4) Connection charges;
(5) Sewer improvement charges; and
(6) Other fees and charges as the city may deem necessary to carry out the requirements of these rules and regulations. (Ord. #0-2005-10, Dec. 2005)

18-603. Sewer use charges. (1) Classification of users. Users of the city's wastewater control system shall be classified into two (2) general classes or categories depending upon the user's contribution of wastewater loads. The categories are defined as follows:

(a) Class I: Those users whose average biochemical oxygen demand is 240 milligrams per liter (240 mg/l) by weight or less, and whose suspended solids discharge is three hundred milligrams per liter (300 mg/l) by weight or less, and whose grease discharge is fifty milligrams per liter (50 mg/l) by weight or less.

(b) Class II: Those users whose average biochemical oxygen demand exceeds two hundred forty milligrams per liter (240 mg/l) by weight, or whose suspended solids exceed three hundred milligrams per liter (300 mg/l) by weight, or whose grease concentration exceeds fifty milligrams per liter (50 mg/l).

(2) Determination of costs. (a) The costs of operation, maintenance and interim replacement for the treatment system shall be distributed proportionately among all users based on the flow volume of each user. Flow volume shall be determined by the water meter records unless the user elects to install a sewer flow meter. A surcharge shall be levied against those users with wastewater effluent strengths that exceed the strength of "Class I Users" as defined above.

(b) Additional charges will result from debt service and capital recovery. These costs will be distributed proportionally among all users based upon flow. (Ord. #0-2005-10, Dec. 2005)

18-604. Industrial strength surcharge fees. (1) Additional charges and fees established for Class II users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which is above the normal strength, and which may include, but not be limited to, BOD, SS, grease and volume.

(2) When the biochemical oxygen demand, suspended solids, or grease discharged to the treatment system by a user exceeds those described as characteristic of Class I Users, the following formula shall be used to compute the appropriate additional user charge:

$I_u=B_cB_u+S_cS_u+G_cG_u$

Where:

I_u = Total industrial surcharge to be added to regular charges

B_c = Total cost for treatment of a unit of biochelnical oxygen demand
B_u = Excess above domestic BOD contribution for a user per unit of time
S_c = Total cost for treatment of a unit of suspended solids
S_u = Excess above domestic SS contribution for a user per unit of time
G_c = Total cost for treatment of a unit of grease
G_u = Excess above domestic grease contribution for a user per unit of time
(Ord. #0-2005-10, Dec. 2005)

18-605. Sewer improvement charges. (1) All customers subject to a sewer improvement charge as defined in § 18-203(52) will continue to pay said charge until the full obligation is discharged. The sewer improvement charge may be paid in full at any time during the term of payment by paying the remaining lump sum balance.

(2) For those customers subject to the sewer improve charge pursuant to § 18-605(1) above the number of basic charges which shall be paid shall be determined as set forth in the schedule of rates and charges. (Ord. #0-2005-10, Dec. 2005)

18-606. Notification. Each user shall be notified annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services. (Ord. #0-2005-10, Dec. 2005)

18-607. Review. The city shall review not less than every two (2) years the wastewater contribution of users and user classes, the total costs of operation and maintenance of the treatment works and its approved user charge system. The city shall make any revisions to user charges necessary to provide prudent and proper operation of the wastewater system. (Ord. #0-2005-10, Dec. 2005)

18-608. Deposits. (1) A customer, when called upon by the city, shall deposit with it such reasonable sums of money as the city may require as continuing security for the performance of the obligations contracted for by the customer. Failure to make such deposit shall be deemed a breach of the contract, permitting the city to declare the contract forfeited and to refuse or to discontinue service.

(2) Upon termination of service, the deposit may be applied by the city against any of the customer's obligations to the city, regardless of whether such obligations arose in connection with wastewater service or otherwise. Any part of the deposit which is not so applied will be refunded to the customer upon demand.

(3) No deposit shall be transferable or assignable by customer. (Ord. #0-2005-10, Dec. 2005)

18-609. Connection charges. (1) Whenever a city connection order is issued for the connection of a service (including, without limitation, an order for service to a new customer, or service is transferred from one customer's name to another, or service is reinstated after having been removed from the active accounting records of the city, the city shall charge a non-refundable connection charge of not less than fifteen dollars ($15.00) to cover the expense of this connection. There shall be no charge in the disconnections and connections.

(2) When more than one (1) utility service is involved in a single connection order, not more than one (1) charge will be made. The city shall have the authority to waive this connection charge in any case where such waiver is obviously to the best interest of the city.

(3) Whenever service has been discontinued, but prior to the removal of such service from the active accounting records of the city, a reconnection charge of not less than five dollars ($5.00) may be collected by the city before service is restored. (Ord. #0-2005-10, Dec. 2005)

18-610. Single point delivery. The rates fixed in the schedule of rates and charges are based upon water service to the entire premises through a single delivery and metering point. If water service is rendered to any customer or premises through more than one (1) delivery point, the city reserves the right to bill each such delivery point as a separate service. (Ord. #0-2005-10, Dec. 2005)

18-611. Multiple service through a single meter. Where the city may allow more than one (1) customer or premises to be served through a single water service main and meter, the amount of water used by all customers or premises served through a single water service main and meter shall be allocated to each separate customer or premises thus served by dividing the amount of water so used by the number of customers or premises served. The sewer service charge for each such customer or premise thus served shall be computed just as if each such customer or premise had received through a separately metered water service the amount of water so allocated to it, such computation to be made at the city's applicable sewer service charge rates, including the provisions as to minimum bills. The separate charges for each customer or premise served through a single water service main and meter shall then be added together and the sum thereof shall be billed to the customer in whose name the service is supplied. (Ord. #0-2005-10, Dec. 2005)

18-612. Secondary meters. Any customer desiring to use a secondary meter for the purpose of measuring water not discharged to the wastewater system to affect a reduction in the wastewater service charge, must submit plumbing plans for the facility showing the proposed location for an approved secondary water meter. The secondary meter site shall be readily accessible by

the city. The cost of the meter installation and the subsequent maintenance shall be paid solely by the customer. (Ord. #0-2005-10, Dec. 2005)

18-613. Alternate water supplies. A customer connected to the city's wastewater system but not connected to the city water system, shall be required to provide in writing to the city the name of the individual or firm, the address, and the source of supply. Such customer will be charged for wastewater service based upon metered water usage, if obtainable. If neither the customer's water usage nor wastewater discharge volumes are metered, the average water usage of comparable metered customers as determined by the city will be used to calculate the charges under the schedule of rates and charges. (Ord. #0-2005-10, Dec. 2005)

18-614. Frequency of bills. (1) Bills for residential service will be rendered monthly. Bills for commercial and industrial service may be rendered weekly, semi-monthly or monthly, at the option of the city.

(2) Wastewater bills must be paid on or before the due date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive bill will not release customer from payment obligation, nor extend the due dates.

(3) In the event bills are not paid on or before the due date, service may be discontinued without notice to customer and not again resumed until all bills are paid, and the city shall not be liable for damages on account of discontinuing service at any time after the due date, even though payment of such bills be made on the same day either before or after service is actually discontinued.

(4) When a customer has two (2) or more accounts that are payable at different times and wants the same due dates for such accounts, or when other conditions make desirable the use of a due date different from that provided in these rules and regulations, such a due date may be established on the customer's application, provided such due date is approved by the city manager.

(5) If the city elects to read meters less frequently than each month in order to reduce meter reading expense or for other reasons, the city reserves the right to render an estimated bill to a customer for any billing period for which such customer's meter is not read. If a subsequent meter reading shows that the estimated bill was based on an erroneous mistake of consumption, the city at its option will either adjust the estimated bill to correct the error or make a compensated adjustment in a later bill. (Ord. #0-2005-10, Dec. 2005)

18-615. Adjustments to bills. (1) The city shall not be obligated to make adjustment of any bills unless within ninety (90) days after the questioned bill is paid the customer files with the city a written objection to said bill specifying the basis for the desired adjustment.

(2) The city shall be under no obligation to extend the due date or the time for paying any bills to the city because the customer disputes the amount of the bill or liability for the bill. The customer shall have the right to pay any disputed bill under protest provided the customer at the time of payment gives the city written notice that the payment is being made under protest together with a written statement of the ground or grounds upon which the customer questions the correctness of the bill; and any such payment thus made under protest shall not be considered a voluntary payment provided the customer files suit to recover the questioned payment within ninety (90) days after such payment is made.

(3) No customer shall be entitled to any bill at the net rate while such customer is delinquent in the payment of any obligation owed the city by such customer.

(4) If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available.

(5) To the extent that any sales or other tax is payable by a customer on any service provided by the city and the city is obligated to collect such tax from the customer, the customer's failure to pay any such tax shall have the same effect as such customer's failure to pay all or any part of the charge for the service to which such tax if attributable. Failure of the city to bill the customer for all or any part of any such tax will not release or otherwise affect the customer's obligation to pay such tax to the city at any later time.

(6) Nothing contained herein shall authorize the city to discontinue service or to take other action with complying with all rights to a customer to due process of law. (Ord. #0-2005-10, Dec. 2005)

18-616. Pool and watering credits. (1) A watering credit shall be given each domestic user for the months of June, July, and August. This credit will be computed based on the user's consumption history and will include allowances for the normal increased consumption experienced during these months. This credit will be automatically applied to all domestic user's billings and will be the only watering credit so applied unless the user has installed a secondary meter as per § 18-612 above, in which case the secondary meter readings will be used for the determination of watering credits.

(2) A pool credit for filling swimming pools or similar structures may be obtained by domestic users only, providing that the user supplies the city manager or his/her designated representative with the dimensions of the structure being filled for purposes of calculation of the amount of the credit. The pool credit will be applied to the customer's billing after verification of the water usage through billing records.

(3) No automatic watering credits will be applied to commercial or industrial users. All volume credits for reduction of wastewater usage charges

for commercial and industrial users must be obtained through secondary metering as per § 18-612 above. (Ord. #0-2005-10, Dec. 2005)

18-617. Claims for exemptions from sewer service charge. Claims for exemption from the sewer service charge because of non-availability of sewers may be made to the city manager giving the city account number and meter numbers. Exemption from the charge will be retroactive to the commencement date of the wastewater service charge or the date of non-availability. (Ord. #0-2005-10, Dec. 2005)

18-618. General extension policy. (1) Extensions to the wastewater control system and the customer costs associated with such extensions pursuant to §§ 18-619 and 18-620 below, will be determined on an economic feasibility basis, taking into consideration the total cost of the project, the anticipated return on investment, and the benefit to the health of the community. Customer costs associated with an extension will constitute a contribution in aid of construction and will be payable as defined in §§ 18-619 and 18-620 below.

(2) The authority to make wastewater main extension pursuant to §§ 18-619 and 18-620 is permissive only; nothing contained herein shall be construed as requiring the city to make wastewater main extensions to furnish service to any person or persons, even though such prospective customers meet all the requirements contained in §§ 18-619 and 18-620 so as to permit the city to make a main extension pursuant to said provisions.

(3) All sewer trunk lines shall be eight (8) inches. All sewer feeder lines shall be four (4) inches or greater and all sewer service lines shall be six (6) inches or greater. (Ord. #0-2005-10, Dec. 2005)

18-619. Main extensions to developed areas. (1) The provisions of this section shall apply only to wastewater collection main extensions where there is a demand for wastewater service by the occupants of existing premises, or where there exists a threat to public health by gross pollution caused by inadequately operating or overflowing underground sewage disposal fields. This section shall in no event be applicable to land development projects, subdivision promotions, or any undeveloped lots or parcels.

(2) Owners of property to be served by a proposed wastewater collection main extension of the character to which this section applies shall pay to the city a contribution in aid of construction as set forth in § 18-618 above, for each connection desired. The contribution in aid of construction will be due and payable upon connection of the user to the sewer system. Owners may pay the contribution in aid of construction in a single lump sum payment or may choose to pay over time, the terms and rate of which will be determined by the superintendent based on prevailing economic conditions.

(3) Upon completion of the wastewater collection main extension and installation of wastewater lateral, each customer shall commence paying to the

city wastewater service charges at least equal to the minimum monthly service charges prescribed by the applicable rules, regulations, and rate schedules of the city for each such connection regardless of the use made thereof.

(4) Extension of a larger wastewater collection main to premises already served by a smaller wastewater collection main, when made at the request of a customer or customers, and not initiated by the city as an improvement to the city's wastewater collection system, shall be treated as an original wastewater collection main extension as described in §§ 18-619(1), (2), and (3) above. (Ord. #0-2005-10, Dec. 2005)

18-620. Other main extensions. (1) The provisions of this section shall apply to all areas to which § 18-619 is not applicable, including all land development projects and subdivision promotions.

(2) Persons desiring wastewater collection main extensions or connections pursuant to this section must pay a contribution in aid of construction equal to the costs of making such extension or connections; including the costs of connecting mains to the city's existing wastewater collection system located outside the area being developed or promoted.

(3) The size, type and installation of wastewater collection mains pursuant to this section must comply with the city's "Standard Specifications for Sewer Construction," and must be approved by the city.

(4) All mains and other wastewater facilities shall be constructed either by the city's forces or by persons pursuant to § 18-620 below. For work performed by the city, the applicant for the extension shall pay in advance of construction the cost of the extension as reasonably estimated by the city.

(5) Upon completion of extensions, connections, and their approval by the city, the wastewater collection mains and connections shall become the property of the city, and the persons paying the cost of constructing such mains and connections shall execute any written instrument requested by the city to provide evidence of the city's title to such mains and connections. In consideration of such mains and connections being transferred to the city, the city shall incorporate said mains and connections as an integral part of the city's wastewater collection system and shall furnish wastewater collection service therefrom for the reasonable life of said mains and connections, in accordance with the city's rules, regulations and rate schedules.

(6) No refunds shall be made by the city for service connections attached to the mains installed pursuant to this section.

(7) An extension of larger wastewater collection mains to premises already served by a smaller wastewater collection main, when made at the request of the customer or customers and not by the city as an improvement to the city's wastewater collection system, shall be treated the same as an original wastewater main extension for the purposes of this section. (Ord. #0-2005-10, Dec. 2005)

18-621. Work performed by persons other than the city. (1) Not withstanding elsewhere in these rules and regulations provided, where provision is made herein for wastewater collection mains or other wastewater facilities to be constructed by the city at the expense of the customer or any person other than the city, the city manager is authorized to enter into a written agreement with a customer or other party for such construction work to be done by a contractor or other person acceptable to the city.

(2) All such construction work shall at all times be subject to inspection by the city's representatives to assure that the work shall conform to the city's specifications.

(3) The city's contract authorizing the customer or other person to have the work done in this manner may provide for the reduction of any required contribution in aid of construction for the work upon the completion thereof to the satisfaction of the city's inspections in an amount not to exceed the reasonable costs the city would have incurred if the work had been done by the city.

(4) No approval or inspection by the city hereunder shall relieve the customer or his contractor of any liability to the city or third parties for the work performed by the customer or his contractor. (Ord. #0-2005-10, Dec. 2005)

18-622. Easement rights and relocation of city's facilities. (1) In cases where the needs of one or more customers are such as to intake desirable the location of the city's wastewater mains, and appurtenant facilities on the customer's property or other private property in order to provide service to such customer(s) shall provide adequate easement rights as required by the city for the city's facilities.

(2) The city shall not install such wastewater mains and facilities and no applicant for service shall be entitled to such service until the city has been furnished at no cost to the city, such indefeasible easement rights for such wastewater mains and facilities at a location acceptable to the city.

(3) All persons having any interest in the property where such wastewater mains and facilities of the city are located, shall be conclusively presumed to have agreed to the construction and continued maintenance of such wastewater mains and facilities if at any time after the use thereof begins, a continuous period of six (6) months elapses during which no effort is made by the customer or by any person having an interest in such property, to have such wastewater mains and facilities removed or relocated.

(4) Any person wishing to have the city's wastewater mains or facilities relocated for his convenience shall be entitled to have such wastewater mains or facilities relocated only if:

(a) All easement for a suitable substitute location acceptable to the city is provided at no cost to the city; and

(b) Satisfactory arrangements are made with the city for all expenses for any relocation work to be paid at no cost to the city.

Until arrangements acceptable to the city are made for providing wastewater service to the premises served by such wastewater mains or facilities, no person shall have the right to require the city to remove any such wastewater mains or facilities even though the facilities are not in active use at the time. Neither the customer nor any other person shall do anything on the property where such wastewater main and facilities are located, or allow any use thereof, which will endanger said wastewater main and facilities or which will create a hazard by reason of the location or use of such wastewater mains and facilities, or which will materially interfere with access thereto for the repair, maintenance and use thereof.

(5) Any customer whose premises do not extend to a public street right-of-way or other public right-of-way from which wastewater service can be safely and economically provided, shall be responsible for providing and maintaining without cost to the city an easement for the city's wastewater facilities between the customer's premises and the public right-of-way from which such wastewater service is to be or is being provided. Such customer shall also be responsible for providing and maintaining all wastewater facilities beyond such customer's point of delivery, which facilities are not owned by the city. This rule applies to all customers, present and future, including without limitation, those occupying apartments, office buildings, condominiums, shopping centers, parks projects, developments, subdivisions, and other similar land uses. (Ord. #0-2005-10, Dec. 2005)

CHAPTER 7

FEES, RATES AND CHARGES

SECTION

18-701. Schedule of charges, fees and rates.[1] (1) Water rates. The water service charge shall be calculated using that rate schedule which is on file in the office of the city recorder. Each year in April, the water rate charges shall increase by three percent (3%) unless there is a recognized need to increase beyond the three percent (3%) to meet the financial obligations of the utility, and in furtherance thereof, the board of commissioners shall have the right, but not the requirement, in April of each year to vote as to whether there is a need to increase the rates by three percent (3%) or above, or whether there is no need to increase for that year. If no action is taken by said board of commissioners, then the water rate charges shall increase by said three percent (3%). The above described said rate schedules which are on file in the office of the city recorder shall be adjusted accordingly to reflect all rate changes. All rates changes shall be effective on July 1 of each calendar year.

In addition to the commodity charge specified in the rate table available at city hall, there shall be an additional monthly charge for meters larger than five-eighths inch (5/8") as provided in the following schedule.

Additional monthly service charge per connection for meters larger than five-eighths inch (5/8"):

In Inches	Inside City	Outside City
3/4	6.00	8.00
1	13.00	15.00
1 1/2	23.00	27.00
2	37.00	44.00
3	75.00	90.00
4	130.00	156.00
6	292.00	350.00
8	518.00	622.00

[1]Commodity charges for water and wastewater and rate schedules are available in the recorder's office.

In Inches	Inside City	Outside City
10	793.00	952.00
12	1,177.00	1,414.00

(2) Wastewater rates. The wastewater service charge shall be calculated using that rate schedule which is on file in the office of the city recorder. Each year in April, the wastewater rate charges shall increase by three percent (3%) unless there is a recognized need to increase beyond the three percent (3%) to meet the financial obligations of the utility, and in furtherance thereof, the board of commissioners shall have the right, but not the requirement, in April of each year to vote as to whether there is a need to increase the rates by three percent (3%) or above, or whether there is no need to increase for that year. If no action is taken by said board of commissioners, then the wastewater rate charges shall increase by said three percent (3%). The above described said rate schedules which are on file in the office of the city recorder shall be adjusted accordingly to reflect all rate changes. All rates changes shall be effective on July 1 of each calendar year.

Meter tap fees:

5/8"	$900
3/4"	$900
1"	$900
1 1/2"	$900
2"	$900
3"	$900
4"	$900
6"	$900
2" fire line	$900
4" fire line	$900
6" fire line	$900
8" fire line or greater	$900

In addition to the above tap fees, for all meter sizes above three-fourths inch (3/4") the customer shall also be responsible for the payment of the cost of the meter, labor and materials, road crossing (bores) and all appurtenances as necessary to complete the connection. All required fees and costs are due and payable in full upon application for service.

(3) New account utility service fee and reconnection fee and leak adjustments. (a) The utility service fee for new accounts shall be

seventy-five dollars ($75.00) for residential and two hundred dollars ($200.00) for non-residential.

(b) The reconnection fee for service accounts which have been terminated due to delinquent payments as set forth in this chapter shall be fifty dollars ($50.00).

(c) If any customer requires a utility service connection or reconnection after 3:00 P.M. on the same day that such request for utility service connection or reconnection is made, an additional fee of twenty-five dollars ($25.00) shall be paid in addition to the utility service connection or reconnection fee set forth above.

(d) (i) Leaks that are verifiable by our radio read metering system are eligible for a once per year (twelve (12) month cycle) leak adjustment. All leaks shall be adjusted (if account participates in the leak adjustment insurance program) on a 50/50 basis for usage above the customer's six (6) month usage average.

(ii) Any leak which is proven to have occurred during a single billing cycle or which first occurred and then continued into the next consecutive billing cycle (anything over two (2) consecutive cycles cannot be adjusted) and which is proven by the radio read meter profiling system or such method as approved by the City of Maynardville to be a continuation of the same leak, and the account is enrolled in the leak insurance program, can be adjusted on the 50/50 basis as described in subsection (d)(i) above and if after such adjustment the amount due exceeds five hundred dollars ($500.00) or more then said amount exceeding five hundred dollars ($500.00) or more can be paid in six (6) equal and consecutive monthly installments due on the tenth of each month with the current and regular bill balance to also be paid as provided for in this chapter. The ten percent (10%) penalty added on all past due balances per existing city policy shall also be added to the adjusted balance due subject to the installment payment plan. Penalties associated with the original leak (even if leak crosses two (2) consecutive billing cycles) will be allowed to be assessed by the city's billing system and subsequent penalties related only to installment payment plan balances shall be adjusted. Failure to timely and properly pay each installment when due shall result in the termination of the payment plan and the entire balance due under the installment plan becoming due and payable in full on the next business day which immediately follows the day on which the installment payment was due and payable. Any payments which are due under the installment plan and which have not been timely paid as provided for herein shall subject the account holder to immediate termination of their utility

services and all reconnection fees shall be applicable before service is reestablished.

(4) Pressure check fee. Twenty dollar ($20.00) water spigot pressure check.

(5) Meter check fee. Thirty dollars ($30.00) to pull meter profile at customer request more than once per twelve (12) month cycle.

(6) Private fire service charges. In connection privately owned automatic sprinklers or hose outlets, MUD provides water service to any residential, commercial or industrial customer; the private fire service charge shall be comprised of the additional monthly charge for meters larger than five-eighths inch (5/8") plus the customer's monthly usage.

(7) Method of payment for all current and past-due service accounts. All service accounts (except for payments being made under the leak installment payment plan described above) shall be due in full by the tenth day of the month. Except for those payments being made under the leak installment payment plan described above, no service accounts shall be allowed to carry a delinquent or past due balance past the due date of the current monthly billing cycle. Except for those payments being made under the leak installment payment plan described above, the service account balance shall be due and paid in full by the tenth day of the month. With the exception of those payments being made under the leak installment payment plan described above, any and all other service accounts with outstanding, past due or delinquent balances shall be disconnected on the fourth Monday of the month if any outstanding, past due or delinquent balances have not been paid in full before the said fourth Monday of the month. All service which has been disconnected or terminated for the reasons set forth in this subsection (7) shall not be reconnected or restored until all service account balances have been paid in full and the required reconnection fee has also been paid in full.

(8) Backflow inspection fee. Yearly backflow inspection fees shall be charged at the minimum rate of seventy-five dollars ($75.00) plus all charges assessed to the city by all others assisting with yearly backflow inspection. (Ord. #0-2015-2, April 2015, as replaced by Ord. #O-2016-1, March 2016 ***Ch1_11-08-22*** and Ord. #O-2016-2, May 2016 ***Ch1_01-10-23***)

18-702. Plans review fee schedule. (1) Water line review in subdivisions with hydraulics provided:

(a) Initial review: One hundred fifty dollars ($150.00)/sheet.

(b) Follow up review: Eighty dollars ($80.00)/sheet.

(2) Water line review in subdivisions without hydraulics provided:

(a) Initial review: One hundred twenty-five dollars ($125.00)/sheet/hourly.

(b) Rate to develop hydraulics of eighty dollars ($80.00)/hour if development is within bounds of current model hydraulic can be developed for a lump sum of three hundred fifty dollars ($350.00).

(c) Any follow up would be charged at eighty dollars ($80.00)/hour.[1]

(3) Sewer reviews of subdivisions: Two hundred percent (200%) of water line fee. (Ord. #0-2015-2, April 2015, as replaced by Ord. #O-2016-1, March 2016 ***Ch1_11-08-22*** and Ord. #O-2016-2, May 2016 ***Ch1_01-10-23***)

[1]Follow up service is required to provide a second review if problems are pointed out in the initial submittal.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

CHAPTER 1

WATER PURCHASE AGREEMENT

SECTION

19-101. Water purchase agreement. That the terms and provisions of that water purchase agreement between the City of Maynardville, Tennessee and Hallsdale-Powell Utility District of Knox County, Tennessee and which water purchase agreement, which terms and provisions of said water purchase agreement are incorporated into this chapter by specific reference to same is approved by the City of Maynardville.[1] (Ord. #0-2009-2, Jan. 2009)

[1]The water purchase agreement for the City of Maynardville is available for review in the office of the city recorder.

TITLE 20

MISCELLANEOUS

[RESERVED FOR FUTURE USE]

APPENDIX A

INSTALLATION CRITERIA FOR REDUCED PRESSURE PRINCIPLE AND DOUBLE CHECK VALVE BACKFLOW PREVENTION ASSEMBLIES

INSTALLATION CRITERIA FOR REDUCED PRESSURE PRINCIPLE AND DOUBLE CHECK VALVE BACKFLOW PREVENTION ASSEMBLIES

MINIMUM INSTALLATION REQUIREMENTS are underlined, all others are suggestions or items to consider:

A. The RP assemblies should never be subject to flooding; therefore should:

1. Never be located in a pit or other area subject to flooding

2. Avoid piped drains for enclosures housing the units. Provision should be made for discharging water (maximum design discharge) directly through the wall of the enclosure housing the unit at a slightly higher elevation than surrounding ground level or maximum flood level.

3. The lowest part of the relief valve discharge port should be a minimum of 12 inches above either:

    1. The ground

    2. Top of the opening(s) in enclosure wall

    3. Maximum flood level

    Whichever is highest, in order to prevent any part of the assembly from becoming submerged.

B. All new backflow prevention assemblies being installed in Tennessee for the protection of a public water system should be included on the latest listing of "Approved Backflow Prevention Assemblies" maintained by the Division of Water Supply.

C. The assemblies should be installed where the units can be easily tested and repaired.

1. Installation of assemblies 2" and less there must be a minimum of six inch clearance from all walls. Assemblies over 2" must be a minimum of twelve inches from all walls.

2. Assemblies installed in stationery enclosures should have at least a 2 ft. clearance on each side of the assembly to facilitate testing and servicing. Adequate drainage must be provided.

3. Assemblies should not be installed higher than 5 ft. from the floor/ground to the center line of the assembly unless safe permanent access is provided for testing and servicing.

D. The pipelines should be thoroughly flushed to remove foreign material and debris. A strainer should be added on the inlet side of the assembly before installation except for fire protection service lines.

E. Installation of backflow prevention assemblies will not allow any unprotected or uninspected connections in front of the backflow prevention assembly.

F. Backflow presenters should be installed with unions and isolation valves on both ends of the assembly to allow removal of the assembly for repair or replacement.

G. Provisions should be made to protect the assemblies from freezing. Insulating materials should not restrict the relief valve discharge accessibility to test cocks or name plate of the unit. All enclosures should be designed to provide for adequate draining for the relief valve.

H. The relief valve of an RP should never be plugged, restricted, or solidly piped to a drain, ditch or pump. Rigidly secured air-gap funnels may be used to direct discharges away from the unit provided an approved air-gap separation is provided at the relief valve discharge and again at the discharge end of the drainpipe. An adequate area drain is recommended to handle the maximum relief valve flow to prevent flooding.

I. The test cocks, valve stems, or name plates should not be painted and their accessibility, operation of legibility should not be hampered nor the relief valve discharge passage be restricted by insulation or other coverings.

J. The assemblies should be installed in an approved position as listed in the Latest Approved List and special supports added if needed.

K. For applications where water temperatures exceed 110° F (43° C) only approved hot water devices are to be used.

L. Prior to completing the installation, temperature pressure relief valves on heating vessels should be properly installed and in good working condition. If needed, thermal expansion tanks should be installed.

M. No unprotected bypasses or connections are made between the assembly and meter.

Existing assemblies not meeting the minimum requirements above, with the exception of being installed in an area that may allow flooding of the assembly, may be allowed variances by the water system. However, no variance may be allowed that will compromise the protection of the assembly or that will allow contaminants in the distribution system. All variances should be documented and kept on file for the life of the assembly. Please review the document entitled Approved Backflow Prevention Assemblies.

APPENDIX A

TYPICAL CROSS CONNECTION HAZARDS

Actual or potential cross connection hazards may be present within every water system. To better understand and become aware of these hazards, the following examples are provided.

A. Common Facilities and Systems Likely to have Cross Connection Hazards:

1. Auxiliary Water Systems
   Any premises or facility with an alternate water supply on or available to the premises. Water stored in reservoirs that are not properly protected or circulated is considered an auxiliary supply.

2. Food Processing
   Pressure cookers, autoclaves, retorts, and other steam connected facilities.

3. Cooling Systems Single Pass
   Compressors, heat exchangers, air-conditioning equipment, and other water-cooled equipment that may be sewer connected.

4. Farming Operations
   Poultry houses, chicken houses with automatic proportioning pumps or feeder barrels for supplying water with live virus or other medication, livestock watering troughs with below the rim filling outlet, diluting and mixing of pesticides and insecticides, mixing and spray equipment, greenhouses, dilution of liquid fertilizers, dairies, unprotected hose bibbs.

5. Fire Protection Systems
   Piping systems and storage reservoirs that may be treated for prevention of scale formation, corrosion, algae, or slime.

   Piping systems that contain non-potable plumbing materials.

   Booster pumps without suction pressure sustaining valves or low suction pressure cutoff switches.

   Sprinkler systems filled with antifreeze solutions Piping systems filed with chemical compounds used in fighting fires.

Fire systems with an auxiliary source of supply or which are located within 1700 ft. of streams, lakes, ponds, reservoirs, or other non-potable waters that could be utilized in emergencies.

6. Film Processing
Automatic film processing machines, tanks, vats, and other facilities used in processing film.

7. Hydraulic Test Facilities
Hydraulic test equipment using pumps, rams, pressure cylinders, or other hydraulic principles, which may force liquids back into the public water system.

Piping systems, tanks, and other equipment where the public water system pressure is used directly and which may be subject to backpressure.

8. Industrial Piping Systems
Industrial piping systems containing chemicals, gases, cutting or hydraulic fluids, coolants, antifreeze, hydrocarbon products, paraffin, caustic or acid solutions and other substances.

9. Industrial Systems -- Chemical Contamination
Tanks, can and bottle washing machines, and piping systems where caustics, acids detergents, and other compounds are used in cleaning, sterilizing, and flushing.

10. Residential or Commercial lawn irrigation systems.
Irrigation systems equipped with pumps, injectors, pressurized tanks, or other facilities for injecting agricultural chemicals, such as, fungicides, pesticides, herbicides, and other toxic or objectionable substances, require immediate protection.

11. Laundry and Dyeing Facilities
Laundry machines having under rim or bottom inlets, dry cleaning equipment, solvent reclaim facilities.

Wash water storage tanks equipped with re-circulating pumps.

Dye vats in which toxic chemicals and dyes are used.

Shrinking, bluing, and dyeing machines directly connected to re-circulating systems.

Boilers, steam lines, and heat exchangers.

12. Paper Processing
Pulp, bleaching, dyeing, and processing facilities that may be contaminated with toxic chemicals.

13. Petroleum Processing
Steam boilers, steam lines, mud pumps and mud tanks, oil well casing used for dampening gas pressure, dehydration tanks, oil and gas tanks in which hydraulic pressures are used to raise oil and gas levels, gas and oil lines used for testing, excavating, and slugging.

14. Plating Facilities
Plating facilities using highly toxic cyanides, heavy metals, such as, copper, cadmium, chrome, acids, and caustic solutions.

Plating solution filtering equipment with pumps and circulating lines.

Tanks, vats, or other vessels used in painting, de-scaling, anodizing, cleaning, stripping, oxidizing, etching, pickling, dipping, and rinsing operations and lines used for transferring fluids.

15. Storage Tanks, Cooling Towers, and Circulating Systems
Storage tanks, cooling towers, reservoirs, and circulatory systems contaminated with bird droppings, algae, slimes, or with water treatment compounds, such as copper, chromate, phenols, and mercury.

16. Sewerage Systems
Cross connections to sewage pumps for priming, water seal lubrication, cleaning, flushing, or unclogging.

Water-operated sewage pump ejectors.

Sewer lines used for disposing of filter or softener backwash, water from cooling systems, or for providing a quick drain for building lines and lines used for flushing or blowing out obstruction in sewer lines.

17. Steam Generation Facilities

Steam generating facilities and lines which may be contaminated with boiler compounds, heat exchangers, single wall steam heated water heating equipment.

18. Hospital-Medical Facilities
Unprotected connections to bedpan washers, hydrotherapy tubs, toilets, urinals, autopsy and mortuary equipment, aspirator, x-ray and photo processing equipment, vacuum pump seals.

Unprotected connections to laboratory equipment which may be chemically or bacteriologically contaminated, such as, steam sterilizes, autoclaves, specimen tanks, and pipette washers.

B. Equipment posing significant risk of creating cross connections.

Establishments with equipment list will normally require premise isolation with a Reduced Pressure Principle Assembly or Double Check Valve Assembly depending on hazard unless otherwise found to have an appropriate air gap.

Many devices or equipment below may be designed and constructed with approved air gaps that would adequately protect the water system. However, the cross-connection control inspector should consider and make judgments on the amount risk that the establishment poses to the distribution and not solely on the presence or absence of the devices, situations, or equipment listed below.

The following is an incomplete list of equipment normally requiring backflow prevention assemblies, it is to be noted than any connection with piping, equipment, or devices that contain or may contain substances that are pollutants or contaminants will require premises isolation.
Air-conditioning systems (using water for processing)
Aspirators
Air lines
Autoclaves and sterilizers
Auxiliary systems
Baptismal tanks
Bathtubs (Hard Piped)
Bedpan washers
Bidets
Booster pumps
Brine tanks, softeners
Boilers

Car wash equipment
Chemical feeders
Chillers
Chlorination equipment
Coffee urns
Commercial cookers
Condensers
Compressors
Cooling systems
Cooling towers
Culture vats
Cuspidor, dental
Developing equipment
Dishwashers
Display fountains
Drinking fountains
Ejectors, steam or water
Extractors
Fire protection systems, standpipes, sprinkler systems and drain lines
Fish tanks, ponds
Floor drains
Food mixing tanks
Frost-free toilets, hydrants, and fountains
Garbage grinders
Garbage can washers
Garden sprayers
Heat exchangers
Humidity controls
Hydraulic equipment
Hydraulic insecticide or fertilizer applicators
Hydraulic lifts
Ice makers
Irrigation systems, lawn sprinklers
Kitchen equipment
Laboratory equipment
Laundry equipment
Lavatories
Lawn sprinklers
Liquid handling systems
Lubrication, pump bearings
Medical equipment
Pest control equipment
Photo laboratory sinks
Potato peelers

Pressure cookers
Process water circulation systems
Pump, priming systems
Sewer flush tanks
Shampoo sinks, basins
Showers, telephone type shower heads
Sinks, slop sinks
Soda fountains
Solar water and space heating equipment
Steam boilers
Steam tables
Stop and waste vales
Swimming pools, ponds, fountains
Tank and vats
Therapeutic tanks, spas, and hot tubs
Threaded hose bibbs
Toilets, flush-o-meter, flush tank, ball-cock, flush valve siphon jet
Vegetable peelers
Vacuum systems
Urinals (siphon set blowout)
Vacuum systems (water operated with water seals)
Water treatment devices
Water troughs
Water-using mechanical equipment
Water Jacketed tanks, vats, cookers

C. <u>Premises, facilities or establishments that pose a significant risk of cross-connection</u>

Reduced Pressure Backflow Prevention Assemblies required for premises isolation

Agricultural processing facilities
Aircraft and missile plants
Amusement parks
Animal hospitals and clinics
Automotive plants
Auxiliary water systems
Autopsy facilities
Beverage bottling plants
Breweries
Automotive plants
Auxiliary water systems
Autopsy facilities

Beverage bottling plants
Breweries
Buildings (multistory) - hotels, apartment houses, public and private buildings, or structures having unprotected cross connections
Campgrounds
Canneries
Car washes
Chemical plants - manufacturing, processing, compounding, treatment, packing, storage
Chemically contaminated water systems
Civil works
Clinics
Cold storage plants
Dairies, creameries
Dry cleaners
Dental buildings
Dye works
Extermination Companies
Fertilizer plants
Fertilizer (liquid) and spray distributors
Film laboratories
Fire sprinkler systems
Funeral homes
Hospitals
Laboratories
Laundries and dye works
Lawn irrigation systems
Medical buildings
Metal manufacturing, cleaning, processing, and fabricating plant
Mortuaries
Morgues
Motion picture studio
Nursing home or convalescent homes
Greenhouses, plant nurseries
Oil and gas production, storage, or transmission facilities
Oil refineries
Packing houses
Paper and paper product plants
Plating plants
Power plants
Private wells
Radioactive materials or substances - plants or facilities that process or use radioactive materials
Reduction plants

Restricted, classified, or other closed facilities
Rubber plants
Sand and gravel plants
Schools and colleges
Sewage pumping stations
Storm water pumping stations
Hard plumbed swimming pools, ponds, and fountains
Tanneries of all kinds
Therapeutic tanks, spas, and hot tubs
Vegetable and food processing facilities
Waterfront facilities and industries
Water treatment plants
Wastewater treatment plants
Water using recreational facilities (swimming pools, water slides)

D. <u>Other situations or conditions that pose a significant risk of contamination</u>:

1. The degree of hazard involved.

2. The likelihood of frequent and/or unapproved plumbing changes.

3. The probability of frequent modification of water using equipment.

4. The complexity of the internal piping system.

5. The difficulty in making frequent inspections to verify that the internal protection provided is being adequately maintained.

6. The likelihood of protective assemblies being rendered ineffective.

7. The ease of access to premises.

8. The time necessary to inspect all water outlets not protected by a backflow prevention assembly.

9. The time needed to inspect the facility at least annually to determine if new cross connections have been created.

WATER SYSTEM
CROSS-CONNECTION SURVEY
RESIDENTIAL

Occupant Name _____

Occupant Address _____

1. Occupancy: ____ Own ____ Rent
2. Meter serves: Homes How Many? _____
   Buildings How Many? _____
3. Do you have? (Please Check all that apply):
   Hot Tub _____ Swimming Pool _____ Jacuzzi _____
   Waterbed _____ Solar System _____ Green House _____
   Underground Sprinkler System _____ Darkroom Equipment____
   Drip/Soaker/Irrigation System ____ Portable Dialysis Machine __
   Insecticide Sprayers (That attach to garden hose also) _____
   Utility sink w/threaded faucet _____
   Wood burning hot water heater ___ Ghost pipes (unidentified) __
4. Do you have bathtub that fills from the bottom? Yes ___ No ___
5. Do you have a water softener or any extra water treatment system?
   Yes ___ No ____
6. Do you have an auxiliary water supply on your premises?
   Yes ___ No ____
7. Do you have livestock and use a water trough or water system connected to by public water? Yes ___ No ____
8. Is your home or building elevated above your water meter?
   Yes ___ No ____
9. Does a creek, river, or spring water run near or on your property?
   Yes ___ No ____
10. Do you have a booster pump, well pump, or any other type water pump? Yes ___ No ____
11. Do you receive irrigation water from a different source?
    Yes ___ No ____
12. Do you have a backflow protection device on your property now?
    Yes ___ No ____
13. Do you have any situation that you are aware of that could create a cross connection? Yes ___ No ____
14. Do you have any other water-using equipment on your property not mentioned above? Yes ___ No ____

If yes, please list below:

_____

_____ _____
Print Name Phone #

_____ _____
Signature Date

Please notify this office if any of the above conditions change.

State Guidance for Approved Backflow Prevention Assemblies

All assemblies, used to protect the public water supply, must be approved by the Division of Water Supply. New installation and replacement assemblies required by a public water system must be included on the latest listing of the Approved List maintained by the Division of Water Supply. A backflow prevention device will qualify as an assembly, if it is consistent with the following definitions:

Double Check-Detector Check Valve Assembly (DCDA)
A specially designed unit composed of a line size approved double check valve assembly with a specific bypass line equipped with a small water meter and a 3/4 inch approved double check valve assembly. The meter shall register accurately for only very low rates of flow and shall show a registration for all rates of flow. The meter will detect small leakage or theft of water for unmetered fire lines. This assembly is designed for fire service lines and is recommended for unmetered fire lines. This assembly is designed to protect against a low hazard or pollutant.

Double Check Valve Assembly (DCVA)
An assembly composed of two independently acting, approved check valves, including tightly closing shutoff valves located at each end of the assembly and fitted with properly located test cocks. This assembly is designed to protect against a low hazard or pollutant.

Reduced Pressure Principal Backflow Prevention Assembly (RPBP)
An assembly containing two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit shall include properly located test cocks and tightly closing shutoff valves at each end of the assembly. This assembly is designed to protect against a health hazard (i.e. contaminant).

Reduced Pressure Principle-Detector Backflow Prevention Assembly (RPDA)
A specially designed assembly composed of a line-size approved pressure principle backflow prevention assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter shall register accurately for only very low rates of flow up to 3 gpm and shall show a registration for all rates of flow. This assembly shall be used to protect against a non-health hazard or a health hazard. The RPDA is primarily used on fire sprinkler systems. This assembly is designed to protect against a health hazard (i.e. contaminant).

The following assemblies will meet recommendations and requirement for protection of the water system:

1. Reduced Pressure Principle Assembly
2. Reduced Pressure Principle Detector Assembly
3. Double Check Valve Assembly*
4. Double Check Valve Detector Assembly*

* Double Check Valve Assemblies and Double Check Valve Detector Assemblies are permissible on non-chemical fire lines Class 1-3 only. Use of these assemblies is at discretion of the water purveyor.

Atmospheric Vacuum Breakers, Pressure Vacuum Breakers, and Spill-Resistant Pressure Vacuum Breakers are not approved by the Division of Water Supply for premise isolation.

Existing Assemblies not on Approved List

Assemblies not listed on the Approved List may be accepted by the Division of Water Supply as an approved assembly under very strict guidelines. The water purveyor may elect, at their discretion, to accept only assemblies listed on the Approved List in order to establish the utmost confidence in backflow protection and prevention.

The Division of Water Supply highly recommends the use of assemblies listed only on the Approved List. Approval of assemblies not listed on the Approved List will be considered on a case-by-case basis by the water system with fulfillment of these requirements:

1. Approved Ordinance and Ordinance of water purveyor at the time of installation did not address or require assemblies from Approved List. Ordinance or ordinance must be amended and approved, if needed, to allow unapproved existing assemblies that meet the following requirements.
2. Assembly must meet all installation criteria required by the water provider.
3. Must meet the definition of assembly and is annually tested. The assembly must be deemed Passed to remain as an acceptable and approved backflow prevention assembly for the protection of the water system.
4. Installation, operation, and maintenance of the assembly will provide adequate protection against backflow.
5. Assembly must be repaired using manufacturer-specified parts in accordance to procedures outlined by manufacturer.

6. A written plan must be reported by the water provider concerning the assembly not shown on the latest Approved List. The plan will specify all conditions and information concerning the assembly including manufacturer, model, serial number, installation, repair information (if available), time line of replacement (depending on type of hazard and risk of contamination) if assembly cannot be repaired in accordance with manufacturer procedures. All plans and worksheets must be completed and kept on file by the water system.
7. If assembly cannot be repaired according to the manufacturer-specified procedures, it must be replaced with an assembly listed on the latest Approved List. The replacement assembly will be installed, operated, and maintained in accordance to the approved ordinance/ordinance of the water purveyor.

State Guidance for Backflow Prevention Assembly Performance Evaluations

Performance evaluations are needed to demonstrate that all parts of the assemblies are performing as designated and as approved.

1. Performance evaluations must be performed on every assembly at least annually.

2. Each backflow prevention assembly must be deemed Passed to remain approved and acceptable protection for the public water system.

   Passed: The status of a backflow prevention assembly determined by a performance evaluation in which the assembly meets all minimum standards set forth by the approved testing procedure.

   Reduced Pressure Principle Assembly:
   a. Relief Valve must have an opening point of 2.0 psid or greater.
   b. Backpressure on Check Valve #2 must hold tight.
   c. Static Pressure Drop across Check Valve #1 must be 3.0 psid or greater than relief valve opening point.
   d. Shutoff Valve #2 must hold tight.
   e. Static Pressure Drop across Check Valve #2 must be 1.0 psid or greater.

Double Check Valve Assembly:

a. Static Pressure Drop across Check Valve #1 must be 1.0 psid or greater.
b. Backpressure on Check Valve #2 must hold tight.
c. Shutoff Valve #2 must hold tight.
d. Static Pressure Drop across Check Valve #2 must be 1.0 psid or greater.

3. The Backflow Prevention Assembly Tester must have, at minimum, a valid Certificate of Competency in Testing and Evaluation Backflow Prevention Assemblies and a valid test kit certification by a manufacturer-approved entity.
4. Backflow Prevention Assembly Testers must test and evaluate according to the latest Division of Water Supply's approved procedures.
5. Test kits must be certified annually and the water provider and tester must show proof of certification from manufacturer-approved entities.
6. Proof of annual test kit certification and Certificate of Competency must be current and kept on file for each tester by water provider for five years.
7. Test reports must be completely and accurately documented and the appropriate evaluation determined from testing procedure.
8. All correspondence and documentation pertaining to each backflow prevention assembly will be kept on file by the water provider for at least five years. This includes, but not limited to, test reports, repair reports and installation records.
9. Each location requiring an assembly will have a documented backflow prevention assembly, if the assembly at the address cannot be identified or is not the correct assembly, the water provider will be notified.
10. Every assembly must pass each part of the Performance Evaluation. If any test does not meet the minimum requirements set forth in the testing procedure, the assembly is deemed Failed. If conditions around the assembly do not allow the assembly to be tested, the assembly fails the assembly performance evaluation. (Examples would include assembly is submerged, test cocks missing or plugged, relief valve continually discharging.)

    Failed: The status of a backflow prevention assembly determined by a performance evaluation based on the failure to meet all minimum standards set forth by the approved testing procedure.

11. Assemblies must be tested when installed and after every repair. Backflow prevention assemblies on lawn irrigation systems must be tested when assemblies are placed in service. If lawn irrigation backflow assemblies are taken out of service to winterize the system, upon startup of the system, the assemblies must be retested.
12. Water systems may elect to place additional requirements on assembly testers as long as there is no conflict with State statute or regulation.

State Guidance for Certificate Competency for Testing and Evaluating Backflow Prevention Assemblies

The information listed below is guidance concerning Certificate of Competencies:

- Anyone testing backflow prevention assemblies for the purposes outlined in the water system's Cross-Connection Control Ordinance or Ordinance must have a valid Certificate of Competency in Testing and Evaluation of Backflow Prevention Assemblies issued by the Division of Water Supply.

- A valid certificate is defined as a Certificate (Basic or Renewal) issued by the state of Tennessee that has not surpassed the three-year time limit from issuance. After certificates have been granted by the State of Tennessee, a Certificate No. is assigned to the applicant. Certificates are valid for three (3) years after certificates are granted. All Certificates are no longer valid, if the Renewal Certificate is not attained within three (3) years from the date the certificate was issued. A 1 year grace period is allowed to attend the renewal class however, the person must not be allowed to test after the 3 year expiration.

- The applicant must complete and satisfy all requirements set forth by the Division of Water Supply to attain and renew the Certificate of Competency.

- Applicant must successfully complete a State-approved Basic Cross-Connection Control training session, written exam, and practical exam to attain an initial Certificate of Competency. The student must successfully complete a State-approved Renewal Cross-Connection Control training session and practical exam to renew the Certificate of Competency.

- Certificate of Competency must be valid in order to perform assembly evaluations.

- In order to renew the Certificate of Competency, a Renewal Course and Exam must be taken within three years after the issuance date to remain valid.

- If the Certificate of Competency is not renewed three years after issuance, the certificate is no longer valid, but does not expire.

- A one year grace period to renew the Certificate of Competency is allowed once the three year time limit has passed.

- Water providers will not accept a test report from a tester whose certificate is in the grace period or has expired.

- If the tester does not renew during the one year grace period, the certificate expires and the tester must take the Basic Course and Basic Exam in order to attain the Certificate of Competency.

State Guidance Concerning Lawn Irrigation Systems

Lawn irrigation systems, both commercial and residential, are recognized by the State of Tennessee Division of Water Supply as an actual and potential cross-connection to a public water system. The contact between the sprinkler heads and the soil or submergence of sprinkler heads allows a connection between the potable water system and water of unknown or unsafe quality.
Soil and standing water in contact with the sprinkler heads poses a significant risk of containing E.coli, Cryptosporidium, Giardia, other pathogens, and hazardous chemicals used for lawn care. Many lawn irrigation systems use toxic chemicals injected in the piping to fertilize and eliminate undesired plants.

Required Protection for Lawn Irrigation Systems by Public Water Systems:

- For public water systems to protect their distribution lines, lawn irrigation systems are protected by a **Reduced Pressure Principle Assembly** or **Reduced Pressure Principle Detector Assembly**.

- Double Check Valves cannot be used for premise isolation on lawn irrigation systems. Double Check Valves may be used for non-health hazards only. Water which contains or may contain pathogens or harmful chemicals is considered a health hazard and

must be protected by a **Reduced Pressure Principle Assembly** or **Reduced Pressure Principle Detector Assembly** only.

- Pressure vacuum breakers, Spill-resistant vacuum breaker, and atmospheric vacuum breakers may not be used to protect the public water system's main-line piping or distribution system. These devices are point-of-use devices and may not be used for premise isolation.

- Assemblies must be tested annually.

- Assemblies on lawn irrigation systems must be tested during the start-up period (typical maximum time limit is within 90 days). Annual testing just prior to winterization or seasonal shutdown is not acceptable. Testing may also be initially staggered in order to reduce problems with scheduling tests.

Backflow Incident Report Form

Reporting Agency: _____ Report Date: _____

Reported By: _____ Title: _____

Mail Address: _____ City: _____

State: _____ Zip Code: _____ Telephone: _____

Date of Incident: _____ Time of Occurrence:_____

General Location (Street, etc.): _____

Backflow Originated From:

Name of Premises: _____

Street Address: _____ City:_____

Contact Person:_____ Telephone: _____

Type of Business: _____

Description of Contaminants:
(Attach Chemical Analysis of MSDS if available)

_____

_____

Distribution of Contaminants:

Contained within customer's premises: Yes: ____ No: _____

Number of persons affected: _____

Effect of Contamination:

Illness Reported: _____

Physical irritation reported: _____

_____

Backflow Incident Report Form

Cross Connection Source of Contaminant (boiler, chemical pump, irrigation system, etc):

_____

_____

Cause of Backflow (main break, fire flow, etc.):

_____

_____

Corrective Action Taken to Restore Water Quality (main flushing, disinfection, etc.)

_____

_____

Corrective Action Ordered to Eliminate or Protect from Cross Connection (type of backflow preventer, location, etc.)

_____

_____

Previous Cross Connection Survey of Premises:

Date: _____ By:_____

Types of Backflow Preventer Isolating Premises:

RPBA: _____ RPDA: _____ DCVA: _____ DCDA: _____

Air Gap: _____ None: _____ Other Type: _____

Date of Latest Test of Assembly: _____

_____

Backflow Incident Report Form

Notification of Division of Water Supply:

Date: _____ Time: _____ Person Notified: _____

Attach sheets with additional information, sketches, and/or media information, and mail to Local Environmental Field Office.

WELL USER AGREEMENT
OF NON-USE OR CONNECTION TO THE PUBLIC WATER SUPPLY

In accordance with Water System's Cross Connection Control program and state law, a private well or auxiliary water source may not be connected in any manner to the public water supply unless proper protection against cross connection is provided. Only a Reduced Pressure Backflow Preventer or an approved air gap (complete separation from public water supply) may be used for protection. These devices must have prior approval by Water System. Customers using the public water supply and not in compliance with this rule will have their water service discontinued.

Check appropriate box:

❑ This serves as notification that a well is located on the property at the following address:

❑ This serves as notification that a well is not located on the property at the following address:

_____

Please type or print

_____

_____

I (we) understand and agree that this system is, and shall remain totally segregated from the public water supply, and no unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections with any type of irrigation systems or otherwise will be permitted without the proper cross connection control device and approval of the Water System.

I (we) further understand and agree that should an auxiliary water supply be connected to the public water system at the above address, maximum cross connection control equipment in the form of an approved air gap or reduced pressure backflow prevention device shall be installed to protect the public water supply.

Date: _____

Name: _____ Notary:_____

Signature: _____ Commission Expires: _____

ORDINANCE NO. O-2015-5

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF MAYNARDVILLE, TENNESSEE.

WHEREAS some of the ordinances of the City of Maynardville 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 commissioners of the City of Maynardville, 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 "Maynardville Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF MAYNARDVILLE, AS FOLLOWS:[1]

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 "Maynardville 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 appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said 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;

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[1]Charter reference
Tennessee Code Annotated, § 6-20-214.

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 fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."[2]

Each day any violation of the municipal code continues shall constitute a separate civil offense.

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 commissioners, by motion or

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[2]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

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 no sooner than fifteen (15) days after first passage thereof, provided that it is read two (2) different days in open session before its adoption, and not less than one week elapses between first and second readings, the welfare of the town 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 July 14th, 2015.

Passed 2nd reading August 25th, 2015.

H. E. Richardson
Mayor

Alma Singleton
Recorder