

**THE
MCKENZIE
MUNICIPAL
CODE**



Prepared by the



Municipal Technical Advisory Service
In cooperation with the Tennessee Municipal League

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Change 1
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CITY OF MCKENZIE, TENNESSEE

MAYOR

Jill Holland

VICE MAYOR

Jessie Townes

COUNCIL MEMBERS

JoseFina Batton
Garrett Burns
Jason Martin
Charles Pruneau
Bobby Young

RECORDER

Jennifer Waldrup

PREFACE

The McKenzie Municipal Code contains the codification and revision of the ordinances of the City of McKenzie, 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 clerk for a comprehensive and up to date review of the city's ordinances.

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

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

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

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

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

The able assistance of the codes team, Doug Brown, Nancy Gibson, Emily Keyser, and Linda Winstead, is gratefully acknowledged.

Stephanie Allen
Codification Consultant

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

SECTION 9. No ordinance shall be adopted without having first been passed on two (2) separate readings, and no more than one (1) reading shall be had on any one (1) day. All ordinances must be in written form upon introduction. An ordinance may pass first reading on the day on which it is introduced. An ordinance may be amended prior to the second reading. Upon final passage of an ordinance, the vote shall be taken by ayes and nays and the names of the councilmen voting for and against the ordinance shall be entered in the minutes. No ordinance shall be adopted unless it receives four (4) affirmative votes of the board of mayor and councilmen.

Within five (5) days, exclusive of Sundays and holidays, after final passage of an ordinance, the mayor shall indicate his approval by signing or his disapproval by vetoing the ordinance. If the mayor neither signs nor vetoes the ordinance during the five (5) day period, the ordinance becomes effective without his signature.

If the mayor vetoes an ordinance, his reasons for doing so shall be stated in writing and the ordinance and the veto shall be presented to the city council for its action. The city council may pass the ordinance over his veto by an affirmative vote of four (4) of its members.

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. CITY COUNCIL.
2. MAYOR.
3. CITY CLERK.

CHAPTER 1

CITY COUNCIL

SECTION

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

1-101. Time and place of regular meetings. The city council shall meet in regular sessions at least once every month. The dates and times of city council meetings shall be as set by a resolution of the council. (1995 Code, § 1-101, modified)

1-102. Order of business. At each meeting of the city council the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the clerk.
- (3) Reading of minutes of the previous meeting by the clerk and approval or correction.
- (4) Grievances from citizens.

¹Charter references

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

Municipal code references

Fire department: title 7.
 Utilities: titles 18 and 19.
 Wastewater treatment: title 18.
 Zoning: title 14.

- (5) Communications from the mayor.
- (6) Reports from committees, councilmen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1995 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1995 Code, § 1-103, modified)

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises city's affairs.

1-202. Executes city's contracts.

1-203. To be bonded.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all the affairs of the city and may require such reports from the various officers and employees of the city as he may reasonably deem necessary to carry out his executive responsibilities. (1995 Code, § 1-201)

1-202. Executes city's contracts. The mayor shall execute all contracts as authorized by the city council. (1995 Code, § 1-202)

1-203. To be bonded. The mayor shall be bonded in the sum of one hundred thousand dollars (\$100,000.00) before assuming the duties of his office. (1995 Code, § 1-203, modified)

¹Charter references

Bond, duties and powers: § 10.

Compensation, oath, term of office: § 6.

Vacancy in office: § 7.

CHAPTER 3

CITY CLERK¹

SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

1-303. To perform general administrative duties, etc.

1-301. To be bonded. The city clerk shall be bonded in the sum of one hundred thousand dollars (\$100,000.00), with surety acceptable to the city council, before assuming the duties of his office. (1995 Code, § 1-301, modified)

1-302. To keep minutes, etc. The city clerk shall keep the minutes of all meetings of the city council and shall preserve the original copy of all ordinances in a separate ordinance book. (1995 Code, § 1-302)

1-303. To perform general administrative duties, etc. The city clerk shall perform all administrative duties for the city council and for the city which are not assigned by the charter or this code to another officer. He shall also have custody of, and be responsible for maintaining all city bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1995 Code, § 1-303)

¹Charter references

Bond: § 12.

Duties: § 12.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. PARKS AND RECREATION BOARD.

CHAPTER 1

PARKS AND RECREATION BOARD

SECTION

2-101. Created.

2-102. Duties.

2-101. Created. There is hereby created a parks and recreation board.
(1995 Code, § 2-101)

2-102. Duties. The board shall have all the duties and powers pursuant to Tennessee Code Annotated, § 11-24-103(b)(1). The board shall be an advisory board. (1995 Code, § 2-102)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge.

3-101. City judge. The city judge shall serve for the same term as the mayor who appoints him and until his successor is appointed and qualified. The compensation of the judge is to be set by council prior to the beginning of the judge's term of office. (1995 Code, §3-101, modified)

¹Charter references

Absence from office: § 13.

Powers: § 13.

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition and remission of fines and costs.
- 3-203. Disposition and report of fines and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1995 Code, § 3-201)

3-202. Imposition and remission of fines and costs. (1) In all cases heard and determined by him or her, the city judge shall impose court costs in the amount of one hundred dollars (\$100.00). 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. Said court costs are separate from any fines assessed and are separate from the state and local litigation taxes collected by the city.

(2) In addition, the court shall levy a local litigation tax in the amount of thirteen dollars seventy five cents (\$13.75) in all cases in which the state litigation tax is levied. (1995 Code, § 3-202, modified, as replaced by Ord. #532, Sept. 2010 *Ch1_02-11-21*)

3-203. Disposition and report of fines and costs. All funds coming into the hands of the city judge in the form of fines, 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 city council a report accounting for the collection or noncollection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1995 Code, § 3-203)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1995 Code, § 3-204)

3-205. Trial and disposition of cases. Every person charged with violating a city ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1995 Code, § 3-205)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating city ordinances. (1995 Code, § 3-301)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1995 Code, § 3-302)

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. (1995 Code, § 3-303)

¹State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

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

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1995 Code, § 3-401)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, Sundays and legal holidays excepted, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1995 Code, § 3-402)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1995 Code, § 3-403)

¹State law reference

Tennessee Code Annotated, § 16-18-307.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY.
2. PERSONNEL SYSTEM.
3. TRAVEL REIMBURSEMENT REGULATIONS.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

SOCIAL SECURITY

SECTION

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

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of McKenzie to provide for all eligible employees and officials of the city, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1995 Code, § 4-101)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1995 Code, § 4-102)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1995 Code, § 4-103)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be

required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1995 Code, § 4-104)

4-105. Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1995 Code, § 4-105)

CHAPTER 2

PERSONNEL SYSTEM

SECTION

- 4-201. Purpose.
- 4-202. Coverage.
- 4-203. Administration.
- 4-204. Personnel rules and regulations.
- 4-205. Records.
- 4-206. Right to contract for special services.
- 4-207. Discrimination.
- 4-208. Title VI compliance.

4-201. Purpose. The purpose of this chapter is to establish a system of personnel administration in the City of McKenzie that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin, or disability. (Ord. #400, Jan. 2005)

4-202. Coverage. All offices and positions of the municipal government are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the city's service, unless specifically placed in the exempt service. All offices and positions of the municipal government placed in the exempt service are as follows:

- (1) All elected officials;
- (2) Members of appointed boards and commissions;
- (3) Consultants, advisers, and legal counsel rendering temporary professional service;
- (4) City attorney;
- (5) Independent contractors;
- (6) People employed by the municipality for not more than three (3) months during a fiscal year;
- (7) Part-time employees paid by the hour and not considered regular;
- (8) Volunteer personnel appointed without compensation;
- (9) City judge; and
- (10) Department heads.

All employment positions of the municipal government not expressly exempt from coverage by this section shall be subject to the provisions of the city charter. (Ord. #400, Jan. 2005)

4-203. Administration. The personnel system shall be administered by the mayor, who shall have the following duties and responsibilities:

- (1) Exercise leadership in developing an effective personnel administration system subject to provisions in this chapter, other ordinances, the city charter, and federal and state laws relating to personnel administration;
- (2) Recommend to the council policies and procedures for recruiting, appointing, and disciplining all employees of the municipality subject to those policies as set forth in this chapter, the city charter, and the municipal code;
- (3) Foster and develop programs for improving employee effectiveness, including training, safety, and health;
- (4) Maintain records of all employees, subject to the provisions of this chapter of the city code, which shall include each employee's class, title, pay rates, and other relevant data;
- (5) Make periodic reports to the council regarding administering the personnel program;
- (6) Recommend to the council a position classification plan and install and maintain such a plan upon approval by the council;
- (7) Prepare and recommend to the council a pay plan for all municipal government employees;
- (8) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the employment needs of the municipal government; and
- (9) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law. (Ord. #400, Jan. 2005)

4-204. Personnel rules and regulations. The mayor shall develop rules and regulations necessary for effectively administering the personnel system. The council shall adopt the rules presented to them by the mayor. If the council has taken no action within ninety (90) days after receiving the draft personnel rules and regulations, they shall become effective as if they had been adopted, and shall have the full force and effect of law.

A copy of the City of McKenzie Personnel Rules and Regulations¹ shall be kept in the city recorder's office. (Ord. #400, Jan. 2005, modified)

4-205. Records. The city clerk shall maintain adequate records of the employment record of every employee as specified herein. (Ord. #400, Jan. 2005)

4-206. Right to contract for special services. The council may direct the mayor to contract with any competent agency for performing such technical

¹The City of McKenzie Personnel Rules and Regulations are contained in Ord. #400, adopted Jan. 13, 2005.

services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (Ord. #400, Jan. 2005)

4-207. Discrimination. No person in the classified service or seeking admission thereto shall be employed, promoted, demoted, discharged, or in any way favored or discriminated against because of political opinions or affiliations, race, color, creed, national origin, gender, religious belief, or disability. (Ord. #400, Jan. 2005)

4-208. Title VI compliance. No person seeking to do business with the City of McKenzie shall on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. (Ord. #400, Jan. 2005)

CHAPTER 3

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-301. Enforcement.
- 4-302. Travel policy.
- 4-303. Travel reimbursement rate schedules.
- 4-304. Administrative procedures.

4-301. Enforcement. The Chief Administrative Officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (1995 Code, § 4-301)

4-302. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

(a) Directly related to the conduct of the city business for which travel was authorized; and

(b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances. Expenses considered excessive won't be allowed.

(7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement. (1995 Code, § 4-302)

4-303. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the federal travel regulation rates. The city's travel reimbursement rates will automatically change when the federal rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (1995 Code, § 4-303)

4-304. Administrative procedures. The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city clerk.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (1995 Code, § 4-304)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-401. Title.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program.

4-401. Title. This section shall provide authority for establishing and administering the occupational safety and health program plan for the employees of the City of McKenzie. (1995 Code, § 4-401)

4-402. Purpose. The City of McKenzie, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

- (1) Provide a safe and healthful place and condition of employment that includes:
 - (a) Top management commitment and employee involvement;
 - (b) Continually analyze the worksite to identify all hazards and potential hazards;
 - (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
 - (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- (2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- (3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- (4) Consult with the state commissioner of labor and workforce development with regard to the adequacy of the form and content of records.
- (5) Consult with the state commissioner of labor and workforce development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety the health standards, and provide for education and notification of all employees of the existence of this program. (1995 Code, § 4-402)

4-403. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of McKenzie shall apply to all employees of each administrative department, commission, board, division or other agency of the City of McKenzie whether part-time or full-time, seasonal or permanent. (1995 Code, § 4-403)

4-404. Standards authorized. The occupational safety and health standards adopted by the City of McKenzie are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (1995 Code, § 4-404)

4-405. Variances from standards authorized. The City of McKenzie may, upon written application of the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of McKenzie shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the City of McKenzie shall be deemed sufficient notice to employees. (1995 Code, § 4-405)

4-406. Administration. For the purposes of this chapter, the city codes enforcement officer is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (1995 Code, § 4-406)

4-407. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the mayor and city council. (1995 Code, § 4-407)

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING AGENT AND PROCEDURES.

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

- 5-101. Collection of taxes.
5-102. Fiscal year.

5-101. Collection of taxes. As provided by the Charter of the City of McKenzie the city clerk shall act as tax collector for the City of McKenzie. He shall issue tax receipts for taxes collected and receipts for the tax books and shall properly enter on the tax books the payment of taxes on the date on which they are collected. (1995 Code, § 5-101)

5-102. Fiscal year. July first of each and every year is designated and established as the beginning of the fiscal year and the last day of June in each and every next year is designated as the end of the fiscal year for the City of McKenzie and for the board of water commissioners. (1995 Code, § 5-102)

¹Charter references

Collection of delinquent taxes: § 19.

Due date: § 19.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable; penalty and interest.

5-201. When due and payable;¹ penalty and interest.² All real estate property taxes for the City of McKenzie shall become due and payable on the first day of October of each year and shall become delinquent on the first day of March next.

To the amount of tax due and payable, a penalty of one-half (1/2) of one percent (1%) and interest of one percent (1%) shall be added to the first day of March following the tax due date and a like amount added on the first day of each succeeding month thereafter. The tax due, with penalty and interest, shall be collected or paid simultaneously. (1995 Code, § 5-201)

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

²Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

CHAPTER 3

PRIVILEGE TAXES¹

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the Act. (1995 Code, § 5-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the clerk to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1995 Code, § 5-302)

¹Municipal code reference
Beer; privilege tax: § 8-208.

CHAPTER 4**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

5-401. To be collected. The clerk is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1995 Code, § 5-401)

¹State 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 5

PURCHASING AGENT AND PROCEDURES

SECTION

5-501. Office of purchasing agent created.

5-502. Duties of purchasing agent.

5-503. Revisions to purchasing procedures.

5-504. Purchases under \$500.00.

5-501. Office of purchasing agent created. As provided in Tennessee Code Annotated, § 6-56-301, et seq., the office of purchasing agent is hereby created and the mayor shall faithfully discharge the duties of said office or appoint an individual to make purchases for the city. Purchases shall be made in accordance with the Municipal Purchasing Law of 1983 and amendments thereto, this chapter and purchasing procedures approved by the governing body. (1995 Code, § 5-501)

5-502. Duties of purchasing agent. The purchasing agent, or designated representative, as provided herein, shall purchase materials, supplies, services and equipment, provide for leases and lease-purchases and dispose of surplus property in accordance with purchasing procedures approved by the governing body and filed with the city clerk. (1995 Code, § 5-502)

5-503. Revisions to purchasing procedures. After initial approval by resolution of the governing body of this city, changes or revisions to the purchasing procedures shall be made only by resolution. (1995 Code, § 5-503)

5-504. Purchases under \$500.00. Purchases under five hundred dollars (\$500.00) are not required to have a purchase order. (1995 Code, § 5-504, modified)

TITLE 6**LAW ENFORCEMENT****CHAPTER****1. POLICE AND ARREST.****CHAPTER 1****POLICE AND ARREST****SECTION**

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance in making arrests.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.
- 6-108. Chief's bond.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1995 Code, § 6-101)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1995 Code, § 6-102)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the mayor shall prescribe and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1995 Code, § 6-103)

6-104. When policemen 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 policeman in the following cases:

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

¹Municipal code reference

Motor vehicles, traffic and parking: title 15, chapter 7.

(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. (1995 Code, § 6-104)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any person willfully to refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1995 Code, § 6-105)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the require bond, he shall be confined. (1995 Code, § 6-106, modified)

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

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1995 Code, § 6-107)

6-108. Chief's bond. The chief of police shall be bonded in the sum of twenty thousand dollars (\$20,000.00) before assuming the duties of his office. (1995 Code, § 6-108, modified)

TITLE 7**FIRE PROTECTION AND FIREWORKS¹****CHAPTER**

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

CHAPTER 1**FIRE DISTRICT****SECTION**

7-101. Fire district described.

7-101. Fire district described. The fire district shall be all property within the city limits. (1995 Code, § 7-101, modified)

¹Municipal code reference
Fires in streets, etc.: § 16-112.

CHAPTER 2

FIRE CODE¹

[RESERVED FOR FUTURE USE]

¹For fire code provisions enforced in the City of McKenzie, see Tennessee Code Annotated and Tennessee state regulations.

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training.
- 7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the city council. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firemen as the mayor shall appoint and the city council shall approve. (1995 Code, § 7-301)

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1995 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1995 Code, § 7-303)

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

¹Municipal code reference

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

to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1995 Code, § 7-304)

7-305. Tenure and compensation of members. The chief and all firemen shall hold office so long as their conduct and efficiency are satisfactory to the mayor.

All personnel of the fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1995 Code, § 7-305)

7-306. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firemen, and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1995 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1995 Code, § 7-307)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

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

7-401. Equipment to be used only within corporate limits generally. No equipment of the fire department shall be used for fighting any fire outside the corporate limits with the following exceptions:

- (1) Mutual aid, as determined by the fire chief;
 - (2) Extraction of automobile accident victims in emergency situations;
- and

(3) Properties covered by a rural fire contract executed by the city.
(1995 Code, § 7-401, modified)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Manufacture prohibited.
- 7-502. Storage, use and sale restricted.
- 7-503. Use of fireworks restricted.
- 7-504. Special displays; permits required.
- 7-505. Penalty for violation.
- 7-506. Use by railroads, etc.
- 7-507. Exceptions.

7-501. Manufacture prohibited. It shall be unlawful for any person, firm, partnership, or corporation, to manufacture within the corporate limits of McKenzie, Tennessee, pyrotechnics, commonly known as fireworks, of any kind or description. (1995 Code, § 7-501)

7-502. Storage, use and sale restricted. It shall be unlawful for any person, firm, partnership, or corporation, to store or sell in, or ship into the corporate limits of McKenzie any pyrotechnics, commonly known as fireworks, except those fireworks classed as permissible fireworks in Tennessee Code Annotated, § 68-104-108. The storage and sale of permissible fireworks shall be subject to the following restrictions:

(1) The storage and sale of permissible fireworks is permitted only within the B-1, B-2, and B-3 districts, as shown on the Zoning Map of McKenzie, Tennessee, and shall be subject to all conditions and restrictions contained in the Zoning Ordinance of McKenzie, Tennessee.

(2) Any person, firm, partnership, or corporation desiring to store and sell fireworks within the corporate limits of McKenzie shall make application for a permit to do so on a form provided for that purpose. The application shall be accompanied by a non-refundable fee of two hundred and fifty dollars (\$250.00). No permit shall be issued to a person under eighteen (18) years of age. All permits shall be for the calendar year or any fraction thereof, and shall expire on December 31. A grace period of two (2) days shall be allowed each holder of a permit.

The application shall include the name of the person making application, the firm, partnership, or corporation he represents, the business address of both the applicant and the partnership, firm or corporation he represents, the address and description of the premises where the storage and sale of fireworks is contemplated, sales tax numbers and any other information the city clerk deems pertinent to aid in the investigation of the application.

The city clerk shall refer the applicant to the fire inspector who shall interview the applicant and inspect the premises in which the storage and sale

of fireworks is contemplated and make whatever additional investigation of the applicant or premises he deems appropriate to insure the premises and its operation by the applicant will not constitute a fire, explosion or similar safety hazard. The fire inspector shall make a written report of his investigation to the city clerk within seventy-two (72) hours which shall indicate whether the application is approved or denied and shall clearly state the reasons for denial, if applicable. The report may also indicate a qualified approval based on authority which the fire inspector shall have to impose reasonable restrictions on the applicant and/or premises.

If the fire inspector approves the application the city clerk shall issue a permit. If the fire inspector approval is qualified, the restrictions and conditions imposed by the inspector upon the applicant and/or premises shall be stated in writing in the permit. The permit shall not be transferable to any other person, firm, partnership, corporation or premise.

Any applicant denied a permit or whose permit contains conditions and restrictions shall have the right of appeal to the board of mayor and council within fourteen (14) days after denial or the issuance of the permit containing conditions and restrictions by giving the city clerk written notice of appeal. Pending appeal by said permit holder whose permit contains conditions and restrictions the permit holder shall abide by any and all conditions and restrictions contained in the permit.

(3) Notwithstanding anything in this code to the contrary, no fireworks shall be sold from an automobile or any other vehicle.

(4) Placing, storing, location, or displaying of fireworks in any window where the sun may shine through the 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 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 kept in original, unbroken containers, nor where resin, turpentine, gasoline, or other flammable substance which may generate inflammable vapors is used, stored, or sold.

(5) It shall be unlawful to 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. It shall be unlawful to explode or ignite fireworks within six hundred feet (600') of any church, hospital, public school, or within two hundred feet (200') of where fireworks are stored, sold or offered for sale. No person shall 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 or at such a motor vehicle, or at or near any person or group of people.

(6) Permissible fireworks may only be sold on a seasonal basis from June 26 through July 5, and from December 30, through January 1. (1995 Code, § 7-502, as amended by Ord. #535, Nov. 2020 ***Ch1_02-11-21***)

7-503. Use of fireworks restricted. It shall be unlawful for any person to fire, set off, shoot or discharge, or otherwise explode any fireworks within the corporate limits of McKenzie, except that it is permissible for persons to fire, set off, shoot, discharge or otherwise explode fireworks at their residences providing that:

(1) The igniting and final firing or exploding is done within the property lines of the person doing the firing;

(2) Such firing is not objectionable to or does not create a nuisance insofar as other residences of the neighborhood are concerned; and

(3) The fireworks may only be fired, set off, shot, discharged or exploded on a seasonable basis from June 26 through July 5 and from December 13 through January 1. The fireworks can be shot until 10:00 P.M., except for December 31st when they shall be allowed until 1:00 A.M.

Streets, roadways, and alleys maintained by the State of Tennessee or the City of McKenzie and sidewalks adjacent to the property from which fireworks are being exploded or fired are to be construed as outside the property lines of the person exploding fireworks, it being the intent of this chapter to prohibit the use of fireworks on all public streets, roadways, alleys and sidewalks within the City of McKenzie. (1995 Code, § 7-503, as amended by Ord. #535, Nov. 2020 ***Ch1_02-11-21***)

7-504. Special displays; permits required. 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 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 displays only and which are otherwise prohibited for sale and use within the state shall include display shells designed to be fired from motors and display set pieces of fireworks classified by the regulations of interstate commerce commission 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 applied for and received a permit for such display issued by the state fire marshal. Applications for such permits for such public displays shall be made in writing at least ten (10) days in advance of the proposed display, and the application shall show that the proposed display is to be so located and supervised that it shall not be hazardous to property and that it shall not endanger human lives. The application shall so state and shall bear the signed approval of the chief supervisory officials of the fire and police departments of

the City of McKenzie. Permits issued shall be limited to the time specified therein, and shall not be transferable. Possession of special fireworks for resale to holders of a permit for a public fireworks display shall be confined to holders of a distributors permit only. (1995 Code, § 7-504)

7-505. Penalty for violation. Any individual violating any provision of this chapter shall be guilty of a misdemeanor punishable pursuant to Tennessee Code Annotated, § 68-104-114.

The fire inspector of the City of McKenzie is further authorized to seize any contraband and destroy fireworks which do not comply with the provisions defining allowable fireworks contained in this chapter pursuant to the provisions of Tennessee Code Annotated, § 69-104-115. (1995 Code, § 7-505)

7-506. Use by railroads, etc. Nothing contained herein shall be construed as prohibiting the railroads or other transportation agencies from the use of fireworks for signal purposes or illumination. (1995 Code, § 7-506)

7-507. Exceptions. Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classed of public or private transportation or of illuminating devices for photographic use, nor applying to the military or naval forces of the United States or of this state or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale, or use of fireworks solely for agricultural purposes only from the state fire marshal, after approval of the county agricultural agency of the county in which said fireworks are to be used and said fireworks must be at all times kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. (1995 Code, § 7-507)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definition of alcoholic beverages.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the city clerk, representing the City of McKenzie and any fees or taxes
- 8-105. Concurrent sales of liquor by the drink and beer.
- 8-106. Advertisement of alcoholic beverages.

8-101. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise: alcoholic beverages means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of eight percent (8%) by weight, or less. (1995 Code, § 8-101, as replaced by Ord. #506, June 2019 *Ch1_02-11-21*)

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 said code when such sales are conducted within the corporate limits of McKenzie, Tennessee. It is the intent of the Board of Mayor and Councilmen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in McKenzie, Tennessee, the same as if said sections were copied herein verbatim. (as added by Ord. #506, June 2019 *Ch1_02-11-21*)

¹State 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, section 301, for the City of McKenzie 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 McKenzie on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #506, June 2019 *Ch1_02-11-21*)

8-104. Annual privilege tax to be paid to the city clerk. 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 McKenzie 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 an 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. Other than this privilege tax, no other fees or taxes can be levied on such businesses. A gross receipts tax is levied by the State of Tennessee on all alcoholic beverages sold for consumption on the premises. This fee is collected by the State Department of Revenue on a monthly basis and is distributed as follows:

- (1) Fifty percent (50%) for education and
- (2) Fifty percent (50%) to the local municipal jurisdiction.

The local amount is further allocated with fifty percent (50%) to education and fifty percent (50%) to the city's general fund. The ABC takes their applications, performs background checks and issues licenses. The city's beer board will not regulate the provisions and requirements of the license. (as added by Ord. #506, June 2019 *Ch1_02-11-21*)

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 McKenzie, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of § 8-212(3) of the ordinances of the City of McKenzie, qualify to receive a beer permit from the city. (as added by Ord. #506, June 2019 *Ch1_02-11-21*)

8-106. Advertisement of alcoholic beverages. All advertisements 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. #506, June 2019 *Ch1_02-11-21*)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health and safety prohibited.
- 8-212. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-213. Prohibited conduct or activities by beer permit holders, employees and
 persons engaged in the sale of beer.
- 8-214. Revocation or suspension of beer permits.
- 8-215. Compliance with Responsible Vendor Act.
- 8-216. Civil penalty in lieu of revocation or suspension.
- 8-217. Loss of clerk's certification for sale to minor.
- 8-218. Violations.
- 8-219. Posting of beer permit required.
- 8-220. Advertising signs restricted.
- 8-221. Open containers in public prohibited.
- 8-222. Improper disposal of containers prohibited.

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the governing body. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. (Ord. #420, Aug. 2007)

¹Municipal code references

Minors in beer places, etc.: title 11, chapter 1.

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see Watkins v. Naifah, 635 S.W. 2nd 104 (Tenn. 1982).

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #420, Aug. 2007)

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; the names of the board members present and absent; the 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. #420, Aug. 2007)

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. (Ord. #420, Aug. 2007)

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. #420, Aug. 2007)

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. #420, Aug. 2007, as replaced by Ord. #507, March 2017 *Ch1_02-11-21*)

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 be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the

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

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

City of McKenzie. Each applicant must certify that he has read and is familiar with the provisions of this chapter. (Ord. #420, Aug. 2007)

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 McKenzie, 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. #420, Aug. 2007)

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 by the beer board so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise 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 which may be written into his permit by the beer board. Beer permits are not transferable. (Ord. #420, Aug. 2007)

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall not be limited. 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 adoption of this code 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. #420, Aug. 2007)

8-211. Interference with public health and safety prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools or churches or would otherwise interfere with the public health and safety. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within two hundred feet (200') of any school or church. The distances shall be

¹State law reference

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

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 or church. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school or church if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 1993.

The provisions of § 8-211 prohibiting the issuance of a permit authorizing the manufacture or storage of beer, or the sale of beer within two hundred feet (200') of any school or church shall not apply to locations within the present boundaries of the Central Business District or the Highway Business District as defined on the City of McKenzie zoning map. (Ord. #420, Aug. 2007, as replaced by Ord. #467, May 2013 *Ch1_02-11-21*, and Ord. #526, Dec. 2018 *Ch1_02-11-21*)

8-212. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of beer or other alcoholic beverage or any crime within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime within the past ten (10) years. (Ord. #420, Aug. 2007)

8-213. 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:

- (1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor within the past ten (10) years.
- (2) Employ any person less than eighteen (18) years of age in the sale, serving, storage, distribution or manufacture of beer.
- (3) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week; at any time between the hours of 12:00 midnight and 12:00 noon on Sunday; or at any time prohibited by state law.
- (4) Make or allow any sale of beer to a person less than twenty-one (21) years of age.
- (5) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (6) Allow drunken persons to loiter about his premises. (Ord. #420, Aug. 2007, as amended by Ord. #487, March 2015 *Ch1_02-11-21*, Ord. #492, July 2015 *Ch1_02-11-21*, and Ord. #512, Aug. 2017 *Ch1_02-11-21*)

8-214. Revocation or suspension of beer permits.¹ 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. (Ord. #420, Aug. 2007)

8-215. Compliance with Responsible Vendor Act. 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 beer directly to consumers for off-premise 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. #420, Aug. 2007)

8-216. 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-premise 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. 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 beer sales to minors or for any other offense.

¹State law reference

Tennessee Code Annotated, § 57-5-108(a)(1).

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 beer sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the permit holder shall have seven (7) days within which to pay the civil penalty before 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 may impose. (Ord. #420, Aug. 2007)

8-217. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premise 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 within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalidated and the clerk may not reapply for a new certification for a period of one (1) year from the date of the beer board's determination. (Ord. #420, Aug. 2007)

8-218. Violations. Except as provided in § 8-217, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (Ord. #420, Aug. 2007)

8-219. Posting of beer permit required. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. There shall be two (2) classes of permits issued by the beer board:

(1) **Class A. Off site permit.** This permit will be issued to any applicant engaged in the sale of alcoholic beverages where they are not to be consumed by the purchaser upon or near the premises of such seller. No permit will be issued to an establishment for drive through beer sales. All sales must be inside sales only.

(2) **Class B. On site permit.** This permit will be issued to any restaurant engaged in the sale of alcoholic beverages where they are consumed by the purchaser upon the premises of such seller. The following restrictions apply:

- (a) Restaurants selling alcoholic beverages must be able to seat seventy-five (75) patrons;
- (b) No containers of beer may leave the premises and signs posted stating this fact shall be posted at each exit;
- (c) No drive through sales of beer; and
- (d) Beer must be sold with meals only. (Ord. #420, Aug. 2007)

8-220. Advertising signs restricted. No person authorized to sell beer or other beverages of like alcoholic content at retail may erect or maintain any outside signs, advertising or displays located upon or attached to such buildings or premises for the purpose of advertising beer, or beverages of like alcoholic content; provided, however, that each retail permittee is hereby allowed and permitted to erect and maintain one neon sign inside one (1) window of such building or premises; the maximum size of such sign to be thirty six inches (36") by eight inches (8").

It shall be unlawful for any person, firm, or corporation to place or maintain any outdoor advertisement of beer or any other alcoholic beverages upon any sign, billboard, post, building or other place with the corporate limits of the City of McKenzie. (Ord. #420, Aug. 2007)

8-221. Open containers in public prohibited. It shall be declared unlawful and a misdemeanor for any person to possess an open container of alcoholic beverage in an automobile or in any other conveyance upon the streets and alleys of the City of McKenzie. (Ord. #420, Aug. 2007)

8-222. Improper disposal of containers prohibited. It shall be unlawful for any person to place or abandon, upon the public streets, parks or ways within the City of McKenzie, or upon private properties any carton, can, bottle, cup or other container used for dispensing beverages regulated hereby. (Ord. #420, Aug. 2007)

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.**¹**CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, SOLICITORS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. ADULT-ORIENTED ESTABLISHMENTS.

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

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

9-101. "Going out of business" sales. It shall be unlawful for any person falsely to 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. (1995 Code, § 9-101)

¹Municipal code references

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-201. Definitions.
- 9-202. Permit required; exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Limitations on use of streets and sidewalks.
- 9-209. Exhibition of permit.
- 9-210. Police officers and codes officers to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.
- 9-214. Hours in which business may be conducted; trespassing.

9-201. Definitions. **Goods, wares or merchandise** shall mean all variety of merchandise items, whether handmade or manufactured, or services, whether personal or professional categorized as, but not necessarily limited to, souvenirs, gifts, pries, art, school supplies, cloth, clothing or wearing apparel, toys, balloons, novelties, small appliances, works of art or crafts, directional information and/or charts, street photographers, tools or mechanical, devices of any nature.

Itinerant merchant shall mean any person who engages in the giving away, the selling or offering for sale, of goods, wares or merchandise or who solicits patronage for any person, business, or service by word of mouth, or gesture, or by use of electrical, mechanical or soundmaking devices, to entice or persuade anyone to buy, sell or accept goods, wares, or merchandise within the corporate limits of the city, where the above-mentioned activities are conducted from a temporary or transient location.

Peddler shall mean any person who goes from dwelling to dwelling, business to business, place to place or from street to street, carrying or

¹Municipal code references

Disturbing the peace: title 11, chapter 2.

Liquor and beer regulations: title 8.

Trespassing: title 11, chapter 5.

Wholesale beer tax: title 5, chapter 4.

Zoning: title 14.

transporting goods, wares or merchandise and offering or exposing the same for sale. Connotes one who makes sales and delivery of merchandise or services concurrently and on-the-spot to a residential or commercial customer.

Solicitor shall mean any person who goes from dwelling to dwelling, business to business, place to place or from street to street, talking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery. Does not include bona fide charitable, religious, patriotic or philanthropic organizations to the extent they are regulated by chapter 3 of this title. (1995 Code, § 9-201, as replaced by #Ord. #522, July 2018 *Ch1_2-11-21*)

9-202. Permit required exemptions. (1) It shall be unlawful for any peddler, solicitor, or itinerant merchant to ply his or her trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter.¹ A permit shall be issued to an individual only. No permit shall be used at any time by any person other than the one to whom it is issued.

(2) Exemptions. Except as may be required in chapter 3 of this title, the terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to sellers responding to a prior invitation by the owner or occupant of a residence, nor to bona fide charitable, religious, patriotic or philanthropic organizations, nor to a person receiving authorization to ply his or her trade under a special event permit.

(3) Violation and penalty. Any person violating any of the provisions of this chapter, or filing, or causing to be filed, an application for a permit or certificate under this chapter containing false or fraudulent statements shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). Each solicitation that occurs in violation of this chapter shall be deemed a separate offense. (1995 Code, § 9-202, as replaced by #Ord. #522, July 2018 *Ch1_2-11-21*)

9-203. Application for permit. Applicants for a solicitor's permit under this chapter must file with the city recorder a sworn written application containing the following for each peddler, solicitor or itinerant merchant:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of itinerant merchants, the local address from which proposed sales will be made.

¹Permit application form for peddler/solicitor/itinerant merchant may be found in the recorder's office.

(3) A brief description of the nature of the business and the goods to be sold or the nature of the solicitation.

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

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

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

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

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

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

(10) At the time of filing the application, a non-refundable fee of fifty dollars (\$50.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (1995 Code, § 9-203, as replaced by #Ord. #522, July 2018 *Ch1_2-11-21*)

9-204. Issuance or refusal of permit. (1) Upon receipt of a complete application and all applicable fees and taxes, each application shall be referred by the city recorder to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued. If, on the other hand, the chiefs report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a revocable permit upon the payment of all applicable fees and taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1995 Code, § 9-204, as replaced by #Ord. #522, July 2018 *Ch1_2-11-21*)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a

written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1995 Code, § 9-205, as replaced by #Ord. #522, July 2018 *Ch1_2-11-21*)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the city in the amount of one thousand dollars (\$1,000.00), or if named as an authorized participant in a special event, a peddler, solicitor or itinerant merchant shall be considered to be covered by the special event's bond or deposit as required under title 16, chapter 5 of this code. The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this city and the statutes of the state and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1995 Code, § 9-206, as replaced by #Ord. #522, July 2018 *Ch1_2-11-21*)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises in violation of the city's noise ordinance. (1995 Code, § 9-207, as replaced by #Ord. #522, July 2018 *Ch1_2-11-21*)

9-208. Limitations on use of streets and sidewalks.

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

(2) Prohibitions. The following activities shall be declared unlawful:

(a) Soliciting by parked vehicle or movable receptacle on public streets, highways, sidewalks, right-of-way, and public places.

(b) The erection of stands or similar contrivances on public streets, highways, sidewalks, rights-of-way, and public places for the purpose of giving away displaying and/or buying or selling of goods, wares or merchandise.

(c) Sale of drinks or other prepared foods and/or edible items upon public streets, sidewalks, highways and rights-of-way, except as may be regulated elsewhere in this code. (1995 Code, § 9-208, as replaced by #Ord. #522, July 2018 **Ch1_2-11-21**)

9-209. Exhibition of permit. Permittees are required to exhibit their permits for inspection at all times and upon the request of any police officer or citizen. Failure to exhibit a permit shall constitute a violation of this section. (1995 Code, § 9-209, as replaced by #Ord. #522, July 2018 **Ch1_2-11-21**)

9-210. Police officers and codes officers to enforce. It shall be the duty of all police officers and codes officers to see that the provisions of this chapter are enforced. (1995 Code, § 9-210, as replaced by #Ord. #522, July 2018 **Ch1_2-11-21**)

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

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the permitted business.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

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

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1995 Code, § 9-211, as replaced by #Ord. #522, July 2018 **Ch1_2-11-21**)

9-212. Reapplication. No permittee whose permit. has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1995 Code, § 9-212, as replaced by #Ord. #522, July 2018 *Ch1_2-11-21*)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire one (1) year from the date of issuance or upon the expiration of a permit holder's privilege license, whichever is sooner. Permits may be revoked if, at any time, any condition of the permit or requirement of this chapter has not been met, including but not limited to maintaining all required permits and licenses. (1995 Code, § 9-213, as replaced by #Ord. #522, July 2018 *Ch1_2-11-21*)

9-214. Hours in which business may be conducted: trespassing.

(1) No permittee shall conduct any solicitations or sales except between the hours of 9:00 A.M. and 7:00 P.M. (8:00 P.M. during daylight savings time) on Monday through Saturday, it being the intent that door-to-door sales occur during daylight hours and at times when citizens feel secure in their homes to receive unexpected visitors.

(2) Trespass. It shall be unlawful and deemed to be a trespass for any permittee acting under this division to fail to leave promptly the private premises of any person who requests or directs the permittee to leave or has posted a sign that indicates solicitors are not welcome. (as added by #Ord. #522, July 2018 *Ch1_2-11-21*)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Definition; permit required.
- 9-302. Prerequisites for a permit; revocation or suspension of permit.
- 9-303. Time, place, and manner of restrictions.
- 9-304. Appeal from denial of permit.
- 9-305. Exhibition of permit.
- 9-306. Hours in which business may be conducted; trespassing..

9-301. Definition; permit required. (1) Definition. **Charitable solicitor** 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. No entity shall qualify as a "charitable" or "religious" organization unless the organization has a current exemption certificate from the Internal Revenue Service.

(2) Permit required. No person shall solicit contributions or anything else of value for any charitable or religious purpose on any public street, sidewalk, or other public or private property in the City of Franklin, without a permit authorizing such solicitation in accordance with the procedure in chapter 2 of this title. This section applies only to commercial activities and to the solicitation offers and shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, and if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church.

(3) Violation and penalty. Any person violating any of the provisions of this chapter, or filing, or causing to be filed, an application for a permit or certificate under this chapter containing false or fraudulent statements shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). Each solicitation which occurs in violation of this chapter shall be deemed a separate offense. (1995 Code, § 9-301, as replaced by Ord. #522, July 2018 *Ch1_02-11-21*)

9-302. Prerequisites for a permit; revocation or suspension of permit. The city recorder shall issue a revocable permit, subject to revocation or suspension under the conditions and procedures in chapter 2 of this title. The following prerequisites must be met:

- (1) The application form has been completed by the applicant and all information requested has been verified by the police chief or his designee. The

application shall include all information required to be submitted of every solicitor and shall be subject to the procedure in §§ 9-203 -- 9-205 of this code.

(2) The organization requesting permission to solicit- must prove that it is a tax-exempt organization under one (1) of the applicable provisions of the Internal Revenue Code as evidenced by a current letter from the Internal Revenue Service. (1995 Code, § 9-302, as replaced by Ord. #522, July 2018 *Ch1_02-11-21*)

9-303. Time, place, and manner of restrictions. The following restrictions are placed on the time, place and manner of charitable solicitations that may be done on any street, sidewalk, or other property in the City of Franklin, Tennessee.

(1) No person under the age of eighteen (18) is permitted to solicit on public property.

(2) No person shall be upon or go upon any street or roadway or shall be upon or go upon any shoulder of any street or roadway for the purpose of soliciting employment, business, or charitable contributions of any kind from the occupant of any vehicle.

(3) Solicitors will wear adequate identification regarding the club/charity for which they are soliciting.

(4) No club or charity may conduct a solicitation within the city limits more than once every ten (10) months. (1995 Code, § 9-303, as replaced by Ord. #522, July 2018 *Ch1_02-11-21*)

9-304. Appeal from denial of permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if a permit has not be granted within fifteen (15) days after completion of the application requirements therefor. (1995 Code, § 9-304, as replaced by Ord. #522, July 2018 *Ch1_02-11-21*)

9-305. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit for inspection all times and upon the request of any police officer or person solicited. Failure to exhibit a permit shall constitute a violation of this section. (as added by Ord. #522, July 2018 *Ch1_02-11-21*)

9-306. Hours in which business may be conducted; trespassing.

(1) No charitable solicitor shall conduct any solicitations or sales except between the hours of 9:00 A.M. and 7:00 P.M. (8:00 P.M. during daylight savings time) on Monday through Saturday, it being the intent that door-to-door charitable solicitations occur during daylight hours and at times when citizens feel secure in their homes to receive unexpected visitors.

(2) Trespass. It shall be unlawful and deemed to be a trespass for any permittee acting under this division to fail to leave promptly the private

premises of any person who requests or directs the permittee to leave or has posted a sign that indicates solicitors are not welcome. (as added by Ord. #522, July 2018 *Ch1_02-11-21*)

CHAPTER 4

TAXICABS¹

SECTION

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

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the city and has a currently effective privilege license. Such franchise and license shall be non-assignable and non-transferable.

The name and number of each licensee shall be painted in fast colors, using letters and numerals not less than six inches (6") high, on each side of each taxicab. (1995 Code, § 9-401)

9-402. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to

¹Municipal code reference

Privilege taxes: title 5 and § 8-208.

the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the city council; and make a recommendation to either grant or refuse a franchise to the applicant. The city council shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the city council shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1995 Code, § 9-402)

9-403. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the City Clerk of the City of McKenzie. (1995 Code, § 9-403)

9-404. Revocation or suspension of franchise. The city council, after a public hearing, may revoke or suspend any taxicab franchise for traffic violations or violations of this chapter by the taxicab owner or any driver. (1995 Code, § 9-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the city unless it is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1995 Code, § 9-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the city shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week

they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1995 Code, § 9-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1995 Code, § 9-407)

9-408. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police for an annual fee of five dollars (\$5.00). (1995 Code, § 9-408)

9-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1995 Code, § 9-409)

9-410. Revocation or suspension of driver's permit. The city council, after a public hearing, may revoke or suspend any taxicab driver's permit for traffic violations or violation of this chapter. (1995 Code, § 9-410)

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the city for the purpose of obtaining patronage for their cabs. (1995 Code, § 9-411)

9-412. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and

marked by the city for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to interfere unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1995 Code, § 9-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1995 Code, § 9-413)

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1995 Code, § 9-414)

9-415. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to blow the automobile horn unnecessarily; or to otherwise disturb the peace, quiet, and tranquility of the city in any way. (1995 Code, § 9-415)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1995 Code, § 9-416)

CHAPTER 5

POOL ROOMS¹

SECTION

9-501. Minors without permission of parent to be prohibited.

9-502. Permission to be in writing and to be posted.

9-503. Pool rooms to be kept clean, wholesome, and orderly.

9-501. Minors without permission of parent to be prohibited. It shall be a misdemeanor for any owner, manager, or operator of a pool room or billiard hall within the City of McKenzie to permit any minor under eighteen (18) years of age to loiter or play therein unless such owner, manager, or operator first obtains permission from such minor's parent or guardian permitting such minor to do so. (1995 Code, § 9-501)

9-502. Permission to be in writing and to be posted. The permission of such parent or guardian of such minor as required in the preceding section shall be in writing and shall be posted publicly in such pool room or billiard parlor at all times so as to be available for inspection by the public. (1995 Code, § 9-502)

9-503. Pool rooms to be kept clean, wholesome, and orderly. The owners, managers, and operators of any and all pool rooms and billiard parlors within the City of McKenzie shall operate them in a clean, wholesome, and orderly manner and no drinking of intoxicating liquors or use of profanity shall be permitted therein. (1995 Code, § 9-503)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 6

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-601. Purpose.
- 9-602. Definitions.
- 9-603. License required.
- 9-604. Application for license.
- 9-605. Standards for issuance of license.
- 9-606. Permit required.
- 9-607. Application for permit.
- 9-608. Standards for issuance of permit.
- 9-609. Fees.
- 9-610. Display of license or permit.
- 9-611. Renewal of license or permit.
- 9-612. Revocation of license or permit.
- 9-613. Hours of operation.
- 9-614. Responsibilities of the operator.
- 9-615. Prohibitions and unlawful sexual acts.
- 9-616. Penalties and prosecution.
- 9-617. Severability.

9-601. Purpose. It is the purpose of this chapter 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 secondary effects of sexually oriented businesses within the city. It is not the intent nor effect of this ordinance 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.

9-602. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and

in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(2) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishment which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

(3) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.

(5) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

(6) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes,

without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(7) "City council" means the city council of the City Of McKenzie, Tennessee.

(8) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(9) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

(12) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

9-603. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of McKenzie without first obtaining a license to operate issued by the City of McKenzie.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.

9-604. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the City of McKenzie. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a license shall be upon a form provided by the police chief. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past three (3) years.
- (d) The applicant's height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.

(i) The address of the adult-oriented establishment to be operated by the applicant(s).

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest 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 subletting to applicant.

(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

(l) The length of time each applicant has been a resident of the City of McKenzie or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the McKenzie Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the city council.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the city council at which time the applicant may present evidence as to why his/her license should not be denied. The council shall hear evidence as to the basis of

the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the city council and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Carroll County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief.

9-605. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:
 (i) The applicant shall be at least eighteen (18) years of age.

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-703 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-703 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have

been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the McKenzie Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application.

9-606. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief.

9-607. Application for permit. (1) Any person desiring to secure an permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the police chief. An applicant for a permit shall furnish the following information under oath:

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes, and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.

(i) The length of time the applicant has been a resident of the City of McKenzie or its environs, immediately preceding the date of the application.

(j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the McKenzie Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the city council at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief.

9-608. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the McKenzie Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application.

9-609. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned.

9-610. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the McKenzie Police Department, or any person designated by the city council.

9-611. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the city council.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the McKenzie Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the employee. The application for renewal shall be upon a form provided

by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the city council.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the McKenzie Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief.

9-612. Revocation of license or permit. (1) The police chief shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the city council pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the city council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Carroll County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the city council, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license.

9-613. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Monday through Saturday, and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the McKenzie Police Department, the Carroll County Sheriff's Department, or such other persons as the city council may designate.

9-614. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city council. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the McKenzie Police Department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such

act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the McKenzie Police Department at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by the City of McKenzie Municipal Code. Entertainers are:

(a) Not permitted to engage in any type of sexual conduct;

(b) Not permitted to expose their sex organs;

(c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

9-615. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be

performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer.

9-616. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

9-617. Severability. If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this is invalid in one (1) or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

TITLE 10**ANIMAL CONTROL****CHAPTER**

1. IN GENERAL.
2. DOGS.

CHAPTER 1**IN GENERAL¹****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Pen or enclosure to be kept clean.
- 10-103. Storage of food.
- 10-104. Keeping in such manner as to become a nuisance prohibited.
- 10-105. Hogs.
- 10-106. Seizure and disposition of animals.

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. (1995 Code, § 10-101)

10-102. 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. (1995 Code, § 10-102)

10-103. Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.

10-104. 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. (1995 Code, § 10-104)

¹Municipal code reference
Animals on sidewalks: § 16-111.

10-105. Hogs. It shall be unlawful for any person to raise or keep a hog within the corporate limits during the months of April, May, June, July, August, or September. (1995 Code, § 10-106)

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the city council. 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, and the animal or fowl will be humanely destroyed or sold if not claimed within five (5) days. If the owner is not known, a notice describing the impounded animal or fowl will be posted at the city hall and in at least two (2) other public places within the corporate limits. 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 within the specified time period, the animal or fowl shall be sold, humanely destroyed, or otherwise disposed of as authorized by the city council.

If an impounded animal or fowl is sold for more than enough to cover the expenses incurred by the city in impounding, feeding, and advertising, it, etc., the balance shall be paid to the owner, if known, otherwise into the general fund of the city. (1995 Code, § 10-107)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Impoundment and disposition of dogs.
- 10-208. Summary destruction of vicious or infected dogs.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-113) or other applicable law. (1995 Code, § 10-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1995 Code, § 10-202)

10-203. Running at large prohibited.¹ Any person having a dog within the city limits shall be required to confine the dog on the premises of the owner or on the premises of someone authorized by the owner. No dog, whether licensed or not, shall be permitted to run or be at large within the city unless such dog shall be secured by a leash, not more than eight feet (8') long and controlled by a person mentally and physically competent to hold, manage, and control such a dog while so leashed, so that it shall not bite or injure any person or animal or damage any property. A dog is considered to be running at large when it is off the premises of the owner and not under the control of the owner, either by leash or by cord or chain. (1995 Code, § 10-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. (1995 Code, § 10-204)

¹State law reference

Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1995 Code, § 10-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may cause such dog to be confined or isolated for such time as he deemed necessary. (1985 Code, § 3-206)

10-207. Impoundment and disposition of dogs. Any dog found running at large may be seized by the health officer or any police officer and disposed of in accordance with the provisions of § 10-107 of this code. However, no dog shall be released from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar. (1995 Code, § 10-207)

10-208. Summary destruction of vicious or infected dogs. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any policeman.¹ (1995 Code, § 10-208)

¹For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see the case of Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1927).

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
4. FIREARMS, WEAPONS AND MISSILES.
5. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
6. MISCELLANEOUS.
7. CURFEW FOR MINORS.

CHAPTER 1

ALCOHOL²

SECTION

11-101. Drinking alcoholic beverages in public, etc.

11-101. Drinking alcoholic beverages in public, etc. It shall be unlawful for anyone, within the corporate limits of the City of McKenzie to publicly possess any alcoholic beverage including but not limited to beer, ale, wine, whiskeys and other distilled spirits in an opened condition for the purposes of public consumption.

It shall also be unlawful for anyone within the corporate limits of the City of McKenzie to consume in public any alcoholic beverage including but not limited to beer, ale, wine, whiskeys, and other distilled spirits.

For the purposes of this section "in public" shall mean on any public street or road or in any public gathering place or any private or commercial establishment where the public gathers or congregates.

¹Municipal code references

Animals and fowls: title 10.

Fair housing: title 20, ch. 2.

Fireworks and explosives: title 7.

Streets and sidewalks (non-traffic): title 16.

Traffic offenses: title 15.

²Municipal code references

Improper disposal of containers prohibited: § 8-222.

Open containers in public prohibited: § 8-221.

Sale of alcoholic beverages, including beer: title 8.

This section shall in no way make the private possession of liquor under one gallon unlawful neither shall it make the private consumption of liquor unlawful. (1995 Code, § 11-101)

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-201. 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. (1995 Code, § 11-401)

11-202. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

(1) **Miscellaneous prohibited noises enumerated.** The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) **Blowing horns.** The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or other vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) **Radios, phonographs, etc.** The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) **Yelling, shouting, etc.** Yelling, shouting, 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.

(1) 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 city while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city clerk. 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. (1995 Code, § 11-402)

CHAPTER 3

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

- 11-301. Impersonating a government officer or employee.
- 11-302. False emergency alarms.
- 11-303. Coercing people not to work.
- 11-304. Interference with police and fire department radio frequencies.
- 11-305. Public nuisance.

11-301. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1995 Code, § 11-502)

11-302. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1995 Code, § 11-503)

11-303. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1995 Code, § 11-505)

11-304. Interference with police and fire department radio frequencies. It shall be unlawful for any unauthorized person to broadcast over, or in any other way create interference in or with the city police and fire department radio frequencies.

It shall also be unlawful for any person to monitor radio frequency of the city police or fire department with the intent thereby to aid, abet, or assist either that person or another person in the commission of any crime, offense or violation of this code of ordinances or any other ordinances of the city, or to aid, abet or assist that person or any other person to avoid detection or apprehension for the conviction of any crime or the violation of any municipal ordinance. (1995 Code, § 11-506)

11-305. Public nuisance. (1) Public nuisance shall be defined as any repetitive violation (more than three (3) a month) of the municipal code or a single violation of the state public nuisance law as defined by Tennessee Code Annotated, § 29-3-101 et seq., occurring at a business or residential property, whether same is owner occupied or rental property.

(2) Upon said nuisance being identified, both the perpetrator and the owner, if not one and the same, will be notified and given five (5) days to abate said nuisance. If said nuisance is not abated, the parties may be cited into municipal court and

(a) Fined fifty dollars (\$50.00) a day until said nuisance is abated;

(b) If a business, after a hearing upon the merits, lose their business license; or

(3) The city also retains the option of proceeding in state court, obtaining a temporary injunction and immediately padlocking the premises if the conduct is egregious enough. (as added by Ord. #536, Nov. 2020 *Ch1_02-11-21*)

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. Air rifles, etc.

11-402. Discharge of firearms.

11-401. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or methods. (1995 Code, § 11-601)

11-402. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1995 Code, § 11-603)

CHAPTER 5

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-501. Trespassing.

11-502. Trespassing on trains.

11-503. Interference with traffic.

11-501. Trespassing.¹ The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (1995 Code, § 11-701)

11-502. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1995 Code, § 11-702)

11-503. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to unreasonably prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1995 Code, § 11-704)

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 2.

CHAPTER 6**MISCELLANEOUS****SECTION**

11-601. Caves, wells, cisterns, etc.

11-601. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1995 Code, § 11-802)

CHAPTER 7

CURFEW FOR MINORS

SECTION

- 11-701. Purpose.
- 11-702. Definitions.
- 11-703. Curfew enacted; exceptions.
- 11-704. Parental involvement in violation unlawful.
- 11-705. Involvement by owner or operator of vehicle unlawful.
- 11-706. Involvement by operator or employee of establishment unlawful.
- 11-707. Giving false information unlawful.
- 11-708. Enforcement.
- 11-709. Violations punishable by fine.

11-701. 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 city;
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.

11-702. 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 city 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.

11-703. Curfew enacted; exceptions. It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked on any public place within the city, or to remain in or upon the premises of any establishment within the city, 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 an 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 McKenzie; 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.

11-704. Parental involvement in violation unlawful. It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of § 11-703 of this chapter.

11-705. 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 § 11-703 of this chapter using the motor vehicle.

11-706. 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.

11-707. 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 § 11-703 of this chapter. Each violation of this section is punishable by a maximum fine of fifty dollars (\$50.00).

11-708. Enforcement. 1. **Minors.** Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-703 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 § 11-703 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 §§ 11-703, 11-704, 11-705, or 11-706 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.

11-709. Violations punishable by fine. A violation of §§ 11-703, 11-704, 11-705, or 11-706 subsequent to receiving a verbal warning as provided in § 11-708 is punishable by a maximum fine of fifty dollars (\$50.00) for each violation.

TITLE 12

BUILDING, UTILITY, ETC. CODES^{1, 2}

[RESERVED FOR FUTURE USE]

¹For building, residential, energy conservation, and other such code provisions enforced in the City of McKenzie, see Tennessee Code Annotated and Tennessee state regulations.

²Building permit fees (and all amendments) are available for review in the office of the city recorder.

TITLE 13**PROPERTY MAINTENANCE REGULATIONS¹****CHAPTER**

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. WEEDS, JUNK CARS, ETC.
4. DEMOLITION BY NEGLECT.
5. JUNKED MOTOR VEHICLES.

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

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. House trailers.
- 13-107. Unsanitary, unsafe, or dangerous premises.

13-101. Health officer. The "health officer" shall be such city, county, or state officer as the mayor shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1995 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. (1995 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. (1995 Code, § 13-103)

¹Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.
Refuse disposal: § 17-108.

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it is 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 mayor and city council shall designate an appropriate department or person to enforce the provisions of this section.

(3) Notice to property owner. It is the duty of the department or person designated by the mayor and city council 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 City of McKenzie 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 of McKenzie; 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 mayor and city council 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 of McKenzie 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 Carroll 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 mayor and city council 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 mayor and city council. 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 mayor and city council under subsection (4) above may seek judicial review of the order or act in the Chancery Court of Carroll County, at Huntingdon, Tennessee. 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. (Ord. #428, July 2008)

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. (1995 Code, § 13-105)

13-106. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1995 Code, § 13-106)

13-107. Unsanitary, unsafe, or dangerous premises. The chief of police, the fire chief, and the health officer of the City of McKenzie shall constitute a board of inspection with the authority and duty, upon complaint in writing by any reliable citizen of the City of McKenzie, or whenever a majority of the board deems it necessary, to inspect any or all buildings or premises within the City of McKenzie to determine whether or not they are unsanitary, unsafe, or dangerous to the health, morals, or safety of the inhabitants of the City of McKenzie or to adjoining property. When a majority of the board of inspection shall find any building, structure, or premises to be in an unsanitary, unsafe, or dangerous condition, it shall be the duty of the board to make a written report to the city council of such findings. The board shall also issue an order that such building, structure, or premises shall be made safe and secure or be placed in a sanitary condition or removed.

Such order shall be served upon and shall forthwith be complied with by the owner or occupant of such premises or building, unless appealed within twenty-four (24) hours to the city council. The city council shall within ten (10) days review such order and file its decision thereon, and unless the order is revoked or modified it shall remain in full force and be obeyed by such owner or occupant.

Any owner or occupant failing to comply with such order within ten (10) days after the service of the order, shall be guilty of a misdemeanor and shall forfeit and pay to the City of McKenzie a penalty under the general penalty clause for this code.

The imposition of a penalty for the violation of this section shall not excuse the violation, or permit it to continue and each day thereafter that such violation is permitted to exist shall constitute a separate offense. All persons assisting, aiding, or abetting in any violation of this section shall be guilty of the same offense.

The application of the above penalty shall not be held to prevent the forced removal of the building or structure ordered removed, repaired, or made sanitary. (1995 Code, § 13-107)

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Limitation of liability.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Reports and obligations of public officer.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the city council 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 and, therefore, ordains as follows. (1995 Code, § 13-201)

13-202. Definitions. (1) "Governing body" shall mean the city council charged with governing the city.

(2) "Municipality" shall mean the City of McKenzie, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(3) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(4) "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.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "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.

(6) "Public officer" shall mean the officer or officers who are authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation or use and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1995 Code, § 13-202)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the city building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the city building inspector. (1995 Code, § 13-203)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer 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 (of his own knowing) that any structure is unfit for human occupancy 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 courts of law or equity shall not be controlling hearings before the public officer. (1995 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 occupancy 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, during the time specified in the order, to repair, alter, or improve such structure to render

it fit for human occupancy or use or to vacate and close the structure for human occupancy 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. (1995 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 remove 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 removed; 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 occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (1995 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. (1995 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 removal, or demolition by the public officer shall be a lien against the real property upon which such costs were incurred. 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 costs of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Carroll County, Tennessee, 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 entitled thereto by final order or decree of such court, provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the City of McKenzie, Tennessee, to define and declare the nuisances and to cause their removal or abatement by summary proceedings or as otherwise may be provided by the charter or ordinances of the city. The net costs to the city after all credits are allowed shall be noted on the city property tax roll and be collected and receipted simultaneously with the real property tax payment. (1995 Code, § 13-208)

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 McKenzie, Tennessee; 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; and uncleanness. (1995 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 person is 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 of general circulation in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the 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 Carroll County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1995 Code, § 13-210)

13-211. Limitation of liability. The public officer shall not be liable for any good faith action taken pursuant to this chapter. Any suit for restraining order or injunctive relief shall be brought against the city and process served upon each council person and the mayor. (1995 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. (1995 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. (1995 Code, § 13-213)

13-214. Reports and obligations of public officer. All actions of the public officer taken pursuant to this chapter shall be reported to the City Council of McKenzie, Tennessee, in regular session and any expenditure of funds by the public officer to be used for repair, alterations, improvements or demolition of such structure subject of this chapter shall be approved by the mayor and council prior to such expenditure. (1995 Code, § 13-214)

CHAPTER 3

WEEDS, JUNK CARS, ETC.

SECTION

- 13-301. Unlawful to allow weeds, junk cars, abandoned appliances and other debris to accumulate on the premises.
- 13-302. Definitions.
- 13-303. Notice to clean up premises to owner.
- 13-304. Clean up the premises by the city.
- 13-305. Collection of costs incurred by city.
- 13-306. Administration.
- 13-307. Attorney's fee for collecting costs.

13-301. Unlawful to allow weeds, junk cars, abandoned appliances and other debris to accumulate on the premises. The owners of all lots or property within the corporate limits of the City of McKenzie are hereby required to cut, trim, or remove all weeds, grass, tree branches and offensive or hazardous materials from the site. It shall be unlawful for any person to allow junk cars, abandoned appliances and other debris to accumulate on property under his control.

This chapter shall be enforceable when it is determined by the building inspector/code enforcement officer, that a nuisance or a health hazard exists. (1995 Code, § 13-301)

13-302. Definitions. The purpose of this section is to eliminate ambiguity by providing full definition of certain words which are used in this chapter.

(1) "Abandoned appliances" - Any manufactured appliance(s) not functional and not presently used for its manufactured purpose.

(2) "Grass" - Any of numerous plants of the family Graminea measured to be eight (8) or more inches in height measuring from the base of the plant at ground - surface level.

(3) "Junk car" - Any automobile or any motor vehicle manufactured for transportation which is incapable of being self-propelled upon the public streets or which does not meet the requirements for operation upon the public streets including current licenses and registration also, if the vehicle is not functional within sixty (60) days of the notice and registered within sixty (60) days is considered a junk car.

(4) "Offensive or hazardous materials" - Any tangible or intangible material which is disagreeable to the senses, and/or a material which may be dangerous to the environment or the people.

(5) "Weeds" - Any of various usually common or abundantly growing plants measured to be a minimal of eight (8) or more inches in height,

measuring from the base of the plant at ground - surface level. (1995 Code, § 13-302, modified)

13-303. Notice to clean up premises to owner. Upon the failure of any owner to cut, trim, and remove all weeds, grass, tree branches, and offensive or hazardous materials and/or junk cars, abandoned appliances, and other debris as noted in the first section of this chapter, it shall be the duty of the building inspector/code enforcement officer, to serve a notice mailed by certified mail to the last known address of the person or persons having control over the offending premises, or such notice may be served personally to the owner of the property or may be posted on the property on which the violation exists. Service of notice shall consist of any of the above methods and shall state:

You are hereby notified that the premises under your control, being (property description) have been found to be in an unsanitary, unhealthy and unattractive condition.

You are directed by the City of McKenzie, Tennessee to remove all accumulation of _____ (weeds, grass, tree branches, offensive or hazardous materials to include junk cars, abandoned appliances and other debris) from the premises within the next five (5) days at your own expense.

Should you fail to act upon this directive within the above described time the city shall take appropriate action. (1995 Code, § 13-303)

13-304. Clean up the premises by the city. The owners of all lots or property in violation may request that the City of McKenzie, Tennessee clean up the premises with the property owner reimbursing the city of the costs incurred by the city for such cutting, cleaning or removal of his, her or their property, and all such costs and payment methods shall be set by the city.

Upon the failure of any owner of lots or property to cut/remove or to cause to be cut/removed all violations specified in this chapter upon the property described in the sections above, within five (5) days thereof, the street department, acting through the direction of public works and at his direction, is authorized and directed to cut/remove or have cut/removed, trimmed, clipped, or cleared all such violations as specified in this chapter and a statement of the cost thereof shall be prepared by the office of the director of public works and filed with the city clerk for collection. Pursuant to the authority conferred by the General Assembly of Tennessee, a tax lien may be declared on such property for all costs and expenses, of cutting, clearing, or removing incurred by the street department if costs incurred are not reimbursed to the city by the property owner after submission of statement of costs. (1995 Code, § 13-304)

13-305. Collection of costs incurred by city. Upon receipt of such statement of costs, the city clerk shall bill the owner, by certified mail, in a manner similar to that followed in mailing monthly utility bills, for the amount of the costs incurred by the city for such cutting or clearing of his property and all such bills or charges shall bear interest at the rate of one and one-half percent (1.5%) per month, during that period of time commencing thirty (30) days after the date of mailing such bills or statements of charges and ending on the date of payment. At the same time unpaid real estate taxes are certified or turned over to the city attorney for collection, the city clerk may also certify or turn over to him for collection all unpaid and uncollected bills or charges for the cutting, trimming, or removal of the accumulated debris specified in this chapter, and the city attorney shall file suite or take such other steps as may be necessary to enforce the lien for same on such property. (1995 Code, § 13-305, modified)

13-306. Administration. The city building inspector shall be responsible for the administration and enforcement of this chapter. (1995 Code, § 13-306)

13-307. Attorney's fee for collecting costs. All uncollected sums for the cutting, trimming, and removal of the accumulated debris, as specified in this chapter, for each year, including interest and all costs incurred by the city for remedying the specified violation, after notice to the property owner as herein provided, are hereby declared to be a special tax to be collected as other general taxes levied by the city, including real estate taxes and special assessments. When placed in the hands of the city attorney for collection, fifteen percent (15%) of the unpaid charges for such costs incurred by the city, shall be added to the principal and interest for the attorney's services in making such collections and retained by him. (1995 Code, § 13-307)

CHAPTER 4

DEMOLITION BY NEGLECT

SECTION

- 13-401. Minimum maintenance requirements to prevent demolition by neglect.
- 13-402. Characteristics of deterioration.
- 13-403. Implementation of minimum maintenance requirements.
- 13-404. Initiating citation process.
- 13-405. Citation hearing/ public meeting.
- 13-406. Enforcement.
- 13-407. Unreasonable economic hardship.
- 13-408. Penalties.

13-401. Minimum maintenance requirements to prevent demolition by neglect. Any designated landmark within the McKenzie City limits; or any building or structure within the historic zone must be kept in good repair and must be maintained at minimum maintenance requirements that will prevent one (1) or more of the characteristics of deterioration set forth in § 13-402 of this chapter. The presence of one (1) or more of these characteristics, which left unrepaired could lead to deterioration of the building's structural frame or architectural integrity, shall constitute a failure to meet minimum maintenance requirements and is thus determined to be by demolition by neglect. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-402. Characteristics of deterioration. Demolition by neglect is determined to be deterioration of a building(s) and/ or surrounding environment, and the failure to meet minimum maintenance requirements characterized by one or more of the following:

- (1) Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property;
- (2) Foundations that are deteriorated or inadequate;
- (3) Floor supports that are defective or deteriorated or floor supports insufficient to carry imposed loads with safety;
- (4) Members of walls, or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
- (5) Members of walls, or other vertical supports that are insufficient to carry imposed loads with safety;
- (6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration;
- (7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;

- (8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration;
- (9) Important defining architectural features that are substantially deteriorated;
- (10) Those buildings with the peeling of external paint, rotting, holes, and other forms of decay;
- (11) Unsafe electrical and / or mechanical conditions;
- (12) Exterior plaster or mortar that is deteriorated or crumbling;
- (13) Those buildings with a lack of maintenance of the surrounding environment that is associated with the defining historical character of the structures; i.e. fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
- (14) Broken and or boarded windows and doors;
- (15) Any fault, defect, or condition in the building which renders the same structurally unsafe, not properly water tight, or likely to lead to the deterioration characteristics listed above. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-403. Implementation of minimum maintenance standards.

- (1) Identification of the failure to meet minimum maintenance requirements in a building as listed in § 13-402 above may be made by a member of the historic zoning commission and or design review commission, hereby further referred to as "the commission," commission staff, or the building inspector/codes enforcement officer. This initial identification may be made by routine inspection of the district or neighborhood or by referral from someone in the area.
- (2) Information related to initial identification of demolition by neglect is presented to the historic zoning commission. Upon determination of the commission that the landmark or the building within the historic zone may not meet minimum maintenance requirements, the commission may request upon majority vote, that the building inspector/codes enforcement officer inspect the structure. The chair of the commission shall send a letter by certified mail to inform the property owner of the action by the commission, the impending inspection by the building inspector/codes enforcement officer, and the opportunity he or she will have at next meeting to address the commission about the preliminary identification of demolition by neglect and the inspection report.
- (3) The building inspector/codes enforcement officer or his or her designee will present the inspection findings at the next commission meeting. The report shall detail any defects which constitute, in the inspectors opinion, a failure to meet the minimum maintenance requirements.
- (4) If the determination is made by the building inspector that the structure does not meet the minimum maintenance requirements, the commission, upon a majority vote, may initiate the citation process as specified in § 13-404. At this time, the commission must prepare an application for a

certificate of appropriateness specifying corrective work that is required according to the commission's standards and design guidelines, and indicating the time schedule that will be necessary to complete the minimum maintenance improvements. The time schedule mandated by the commission will be a minimum of thirty (30) calendar days unless the building inspector/codes enforcement officer determines that the failure to immediately meet minimum maintenance requirements creates an imminent threat to the safety of the public or the property. (as added by Ord. #513, May 2018 ***Ch1_02-11-21***)

13-404. Initiating citation process. (1) A citation is formal notification to the property owner that the commission has determined that the demolition by neglect is occurring on the property because minimum maintenance requirements have not been met; and notification of the owner that correction of the defects must be undertaken.

(2) After action by the commission authorizing the citation process, the building inspector/codes enforcement officer will attempt to notify the property owner(s) of the determination of demolition by neglect by the commission. The notification shall state the reasons why the structure is found to be in violation of the minimum maintenance requirements. In addition, the notification shall include a copy of the application for a certificate of appropriateness listing the work required according to the commission's standards and guidelines. The notification shall be in writing and shall be delivered by certified mail, registered mail, or such other method that shows the receipt of the notification by the owner. Notice of the date, time, and location of a citation hearing/public meeting in which the owner may address the commission concerning said violations will also be provided.

(3) If after two (2) attempts, the owner fails to receive the notification regarding the determination of demolition by neglect, the building inspector/codes enforcement officer will post the building / property with a notice of violation. Posting will be in a conspicuous, protected place on the property. The posted notice will include the fact that the building is in violation of minimum maintenance standards and the date, time, and location of the citation public hearing meeting held on the violations by the commission.

(4) The owner(s) of the building/ property determined to be in violation of the minimum maintenance standards shall be notified of said violations as specified in §§ 13-404(2) or(3) above a minimum of ten (10) business days in advance of the meeting on the issue held by the commission.

(5) After receiving notification of the determination of demolition by neglect, the owner(s) may initiate corrective action before the citation public hearing is held. Before work is begun however, the owner(s) must complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit. (as added by Ord. #513, May 2018 ***Ch1_02-11-21***)

13-405. Citation public hearing meeting. (1) If by the designated citation public hearing meeting, the owner(s) of the property has not completed corrective work specified in the notification of violation and the application for a certificate of appropriateness, the commission will restate the violations of the minimum maintenance requirements related to the property. The owner(s) will then be provided with the opportunity to address the concerns of the commission, to provide evidence, and to show cause why a citation should not be issued regarding the alleged violations.

(2) After reviewing the violations of the minimum maintenance requirements and providing the opportunity for the owner(s) to address the concerns; the commission may consider a motion to recognize the condition of the building/ property and the owner(s) failure to correct defects. Upon a majority vote of the commission, the building inspector may be authorized to issue a citation to the owner(s) for failure to comply with the minimum maintenance requirements of this ordinance. This citation will include the following requirements:

(a) A list of minimum maintenance requirements still in violation.

(b) Any remaining or amended requirements detailed in the application for a certificate of appropriateness initially issued through § 13-403(4) above.

(c) A written schedule of the time allotted to correct the violations.

(d) A statement detailing the requirement to complete and return within ten (10) days the application for a certificate of appropriateness, and to obtain a certificate of appropriateness, and a building permit.

(3) The determination of the commission related to the citation and certificate of appropriateness as specified in § 13-405(2) above shall on the date it is authorized be a final administrative decision subject only to the application process for unreasonable economic hardship as specified in § 13-407 and appealable only to the appropriate state court. Any appeal of the commission's decision to the state court must be made within thirty (30) calendar days. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-406. Enforcement. If any owner has not complied with the commission's requirement to complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit within ten (10) business days; or if the owner(s) does not adhere to the allotted schedule for the corrections to take place as approved or amended by the commission in the certificate of appropriateness; or if the owner(s) has not complied with the requirements specified from the commission's standards and guidelines detailed in the certificate of appropriateness, then any or all of the following may apply:

(1) The owner(s) may be required to attend the next meeting of the commission to explain to the commission's satisfaction why the corrections to the owner(s) cited building/property have not been made and to show cause why the commission should not initiate additional enforcement action. Upon review of any information provided regarding delays in the correction of the demolition by neglect, the commission may defer the matter in order to provide the owner(s) with more time either to correct the deficiencies, make a proposal for repairs, or perhaps sell the property.

(2) The commission, upon majority vote, may request the board of mayor and council to direct the city attorney to take the appropriate legal action, either civil or criminal, against the owner(s).

(3) Charges may be brought against the owner(s) in the municipal court of the city for the violation(s) of this chapter.

(4) The commission, upon majority vote, may request the board of mayor and council to cause such property to be repaired by the city at the city's expense at such time funds are available, or to cause such property to be repaired by a designated agent of the city. If repairs are initiated through action by the board of mayor and council, the board will instruct the city attorney to file the necessary affidavits with the courts and / or the register of deeds which shall establish a lien and privilege against the cited property for the benefit of the city or the agent of the city to the extent of the amount of money spent for said repairs plus interest accrued at bank prime rates in effect beginning at the completion of said repairs and continuing until the lien is satisfied.

(5) In final recourse and to preserve the property from irreversible damage or loss, violations of the minimum maintenance requirements shall make a property subject to the city's right of eminent domain. The commission may, upon majority vote, request the board of mayor and council to exercise its power of eminent domain if it is determined that no alternate course of action is feasible. The board may work with any agent to develop a plan for the purchase and the repair of the cited building. Upon the obtaining of ownership to any party or agent that enters into and consummates an agreement with the board of mayor and council to make the necessary building repairs and maintenance corrections in an agreed upon period of time. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-407. Unreasonable economic hardship. (1) Unreasonable economic hardship can be considered when enforcement of regulations in the chapter deprives the owner(s) of the entire reasonable economic value of the property. Enforcement of a minimum maintenance requirement may create unreasonable economic hardship only if all of the following apply:

(a) There is no reasonable return possible on the property as it is;

(b) There is no profitable use to which, the property could be adapted;

(c) The sale or rental of the property is impractical or it is not feasible for the owner(s) to dispose of the property as is at a reasonable price.

(2) An owner(s) that feels he or she fits the criteria established for unreasonable economic hardship may file an application for a certificate of economic hardship. Applications will be accepted by the commission after the commission votes to authorize the building inspector/ codes enforcement officer to issue a citation for violations and the notification has been received by the owner(s).

(3) The owner(s) of property cited for demolition by neglect must inform the commission in writing of his or her intent to file an application for a certificate of economic hardship within ten (10) business days of the date of the citation was issued.

(4) The owner(s) of the cited property must file within ten (10) business days of the date of the citation was issued, a completed application for a certificate of economic hardship. The completed application must be filed with the commission and must be submitted with the following information:

- (a) A copy with the current recorded deed.
- (b) The amount paid for the property and purchase date.
- (c) The current assessed value.
- (d) Past and current use of property.
- (e) Current market value of the property preferably determined by a recent appraisal(s) or if not through county tax records.
- (f) Ownership structure of property (partnership, corporation, joint venture, not for profit, sole proprietorship, etc.)
- (g) Mortgage history of the property including any current mortgage principal balance and interest rate, and any other financing secured by the property including a detail of principal and interest.
- (h) Equity in current use and in previous alternative uses.
- (i) Tax bracket of ownership, and federal income tax returns for previous two (2) calendar or fiscal years.
- (j) Past and current income, expense, and net worth statements for a two (2) calendar or fiscal year period. If the property is income producing, annual gross income from the property and the itemized operating and maintenance expenses for the previous two (2) calendar or fiscal years. In addition the depreciation deduction and annual cash flow before and after debt services, if any, during the same period.
- (k) Past capital expenditures during ownership of the current owner(s).
- (l) Estimate of the cost of the proposed construction, alteration, demolition, or removal related to the corrective measures detailed in the citation issued by the historic zoning commission.
- (m) A detailed description of what alternative legal adaptive uses have been considered by the owners(s).

(n) A detailed description of what efforts have been made by the owner(s) to sell the property, including any listing of the property for sale or rent, price asked, and offers received, if any.

(o) A detailed description of what efforts have been made by the owner(s) to obtain financial assistance, tax credits, transfer of density, etc. that might generate funding for needed improvements.

(5) The commission shall schedule and hold a public hearing on the owner(s) application for a certificate of economic hardship within fifteen (15) calendar days from receipt of the application. Notice of the date, time, and place of the hearing shall be provided to the owner(s) a minimum of fifteen (15) calendar days in advance of the meeting.

(6) The commission may require at the hearing that the applicant furnish additional information relevant to the application including but not limited to the solicitation of expert testimony.

(7) The commission may request, receive, and consider studies and economic analysis related to the property in question from other agencies and sources including private organizations and individuals.

(8) In evaluating the owner's information provided in the application for a certificate of economic hardship, if commission determines that the owner(s) present return is not reasonable, the commission must consider whether there are other uses currently allowed for the structure that would provide a reasonable return and whether such a return could be obtained through an investment in the rehabilitation of the property.

(9) The commission shall review all the evidence and information required of the applicant for a certificate of economic hardship, and make a determination within thirty (30) calendar days following the conclusion of the hearing.

(10) Written notice of the determination will be provided to the applicant along with the reasons justifying the decision by the commission.

(11) If the commission grants a certificate of economic hardship, the commission must detail options it has considered that would bring the property up to minimum maintenance requirements and why each option is not deemed feasible. In granting a certificate of economic hardship, the commission may determine that some corrections may be feasible while others cannot be implemented due to economic hardship. Under such circumstances, the commission must authorize the building inspector/ codes enforcement officer to issue a building permit for any activity that is deemed feasible under the conditions detailed in the certificate of economic hardship.

(12) In granting a certificate of economic hardship, the commission may also detail any feasible plan to relieve any aspect of the economic hardship. The plan may include, but is not limited to, tax relief, loans and grant available from any source public or private, building code modifications, etc. The commission may recommend that the planning commission consider recommending changes to the zoning. The commission may also request the board of mayor and council

to consider relaxation of the provisions of this chapter sufficient to allow reasonable beneficial use of or return from the property. If no alternative cause of action has been deemed feasible, the commission may request the board to consider acquisition through the eminent domain.

(13) If the commission denies a certificate of hardship, the commission must detail in writing the economic and financial options that in the judgment of the commission will allow the improvements to be made to the property as required in the citation issued as specified in section 13-405(2) above.

(14) If a certificate of economic hardship is denied by the commission, the commission will revise, to the extent necessary, the designated schedule for completion of the corrective measures detailed in the citation taking into account any agreed upon need for additional time due to time lost during consideration of the certificate application. The commission will notify the owner(s) in writing of any schedule amendments with the notification of the denial of the certificate within fifteen (15) calendar days.

(15) The determination by the commission of an application for a certificate of economic hardship, either approving or disapproving, shall on the date it is issued be a final administrative decision appealable only to the appropriate state court. Any appeal of the commission's decision to state court must be made within fifteen (15) calendar days. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

13-408. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (as added by Ord. #513, May 2018 *Ch1_02-11-21*)

CHAPTER 5

JUNKED MOTOR VEHICLES

SECTION

13-401. Definitions

13-402. Violations civil offense.

13-403. Exceptions.

13-401. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

Person shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

Private property shall include all property that is not public property, regardless of how the property is zoned or used.

Traveled portion of any public street or highway shall mean the width of the street from curb to curb, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

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.

Junk vehicle shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one of combination of any of the following ways that either makes the vehicles 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:

(a) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(b) 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.

(c) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumpers, windshield, or windows.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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. (as added by Ord. #514, May 2018 *Ch1_02-11-21*)

13-402. Violations a civil offense. 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 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. (as added by Ord. #514, May 2018 *Ch1_02-11-21*)

13-403. Exceptions. It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions: 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 or slum clearance code. (as added by Ord. #514, May 2018 *Ch1_02-11-21*)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MOBILE HOME PARKS.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
14-102. Organization, powers, duties, etc.
14-103. Additional powers.

14-101. Creation and membership. 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 seven (7) members; two (2) of these shall be the mayor and a councilman selected by the city council; the other five (5) members shall be appointed by the mayor. At least two (2) members of the planning commission designated as a regional planning commission in § 14-103 shall reside outside the city but within the region served by the regional planning commission. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for three (3) years each. Two (2) of the five (5) members first appointed shall be appointed for a term of three (3) years, two (2) for a term of two (2) years, and one (1) for a term of one (1) year. The terms of the mayor and the councilman shall run concurrently their terms of office on city council. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1995 Code, § 14-101, modified)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with Tennessee Code Annotated, title 13. (1995 Code, § 14-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1995 Code, § 14-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the City of McKenzie shall be governed by Ordinance Number 240, titled "Zoning Ordinance of McKenzie, Tennessee," and any amendments thereto.^{1,2} (1995 Code, § 14-201)

¹Ordinance No. 240, and any amendments thereto, are published as separate documents and are of record in the office of the city clerk.

²Ordinance No. 440, The 2029 McKenzie Municipal-Regional Land Use and Transportation Plan, along with all maps, is available in the office of the city clerk.

CHAPTER 3

MOBILE HOME PARKS

SECTION

- 14-301. Definitions.
- 14-302. License.
- 14-303. License fees.
- 14-304. Application for license.
- 14-305. Mobile home park plan.
- 14-306. Location.
- 14-307. Water supply.
- 14-308. Sanitation facilities.
- 14-309. Laundry facilities.
- 14-310. Sewage and refuse disposal.
- 14-311. Refuse storage, collection and disposal.
- 14-312. Fire prevention.
- 14-313. Additions to mobile homes--parking restrictions.
- 14-314. Register of occupants.
- 14-315. Revocation of license.
- 14-316. Posting of license.
- 14-317. Existing mobile home parks.

14-301. Definitions. (1) "Dependent mobile home" means a mobile home which does not have a toilet and a bath or shower, or running water.

(2) "Dependent mobile home space" means a mobile home space which is designed to accommodate a dependent mobile home and does not have sewer and water connections to accommodate a toilet and a bath or shower in a mobile home.

(3) "Dwelling" means a house, apartment building, or other permanent building designed or used primarily for human habitation.

(4) "Health officer" shall mean health officer of the City of McKenzie, Tennessee, or his authorized representative.

(5) "Independent mobile home" means a mobile home that has a toilet and a bath or shower, and running water.

(6) "Independent mobile home space" means a mobile home space which has sewer and water connections designed to accommodate the toilet and bath or shower contained in an independent mobile home.

(7) "Mobile home" shall mean and include any vehicle or similar portable structure constructed so as to permit its being used as a conveyance on a public street and so as to permit the occupancy thereof as a dwelling by one or more persons. "Mobile home" shall include "trailer coach."

(8) "Mobile home park" means any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

(9) "Mobile home space" means a lot or plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

(10) "Natural" or "artificial barrier" means any river, pond, canal, railroad, levee, embankment, fence, or hedge.

(11) "Park" means mobile home park.

(12) "Person" means any natural individual. (1995 Code, § 14-301)

14-302. License. (1) It shall be unlawful for any person to maintain or operate within the corporate limits of the City of McKenzie, Tennessee, any mobile home park unless such person shall first obtain a license therefor.

(2) Licenses shall not be transferable. (1995 Code, § 14-302)

14-303. License fees. The annual license fee for each mobile home park shall be equal to but not greater than the amount allowed by the state privilege tax. (1995 Code, § 14-303)

14-304. Application for license. Applications for a mobile home park license shall be filed with and issued by the building inspector. Applications shall be in writing, signed by the applicant, and shall contain the following:

(1) The name and address of the applicant.

(2) The location and legal description of the mobile home park.

(3) A complete plan of the park showing compliance with § 14-305 of this code.

(4) Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park. The sketch shall be drawn to scale showing the number and arrangement of mobile home lots, roadways, water supply water outlets, location and type of sewage, liquid, and garbage disposal and the location of the buildings for toilets, baths, laundries, and other facilities.

(5) Such further information as may be requested by the building inspector to enable him to determine if the proposed park will comply with legal requirements.

The application and all accompanying plans and specification shall be filed in triplicate. The building inspector and the health officer shall inspect the proposed plans and specifications and shall make a report of their findings to the board of zoning appeals of the City of McKenzie. The board of zoning appeals shall inspect the site and the proposed plans and may approve the plans subject to such reasonable conditions as are necessary to protect adjoining and neighboring property and such conditions as are necessary to insure a safe, attractive, and pleasant park development. The board of zoning appeals may

disapprove the application but must state its reasons for such disapproval in writing.

The license shall be issued by the building inspector, but only upon completion of the park in conformance with plans and specifications approved by the board of zoning appeals.

Mobile homes shall not be parked on any public thoroughfare, street, alley, or public place in the City of McKenzie, Tennessee, for longer than one (1) hour when no emergency for repairs exist.

None of the provisions of this chapter shall be construed as prohibiting the parking of mobile homes for display by a duly authorized and licensed dealer or sales agency, provided that the lot where such mobile homes are parked is within an area or zone where such type of business is permitted by the zoning ordinance of the City of McKenzie, Tennessee. (1995 Code, § 14-304)

14-305. Mobile home park plan. The mobile home park shall be designed for either independent mobile homes or for dependent mobile homes, but a park designed for independent mobile homes shall not accept dependent mobile homes. The mobile home park shall conform to the following requirements:

(1) The park shall be located on a well drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

(2) Mobile home plot size and spacing of mobile homes: Mobile home spaces for independent mobile home units shall be provided consisting of a minimum of two thousand one hundred (2,100) square feet for each space which shall be at least thirty feet (30') wide and clearly defined. Mobile home spaces for dependent mobile home units shall be provided consisting of a minimum of one thousand five hundred (1,500) square feet for each space which shall be at least twenty-five feet (25') wide and clearly defined. Mobile homes shall be so harbored on each space that there shall be at least a fifteen foot (15') clearance between mobile homes, provided, however, that with respect to mobile homes parked end-to-end, the end-to-end clearance shall not be less than ten feet (10'). No mobile home shall be located closer than seven feet (7') to any property line bounding the park. No mobile home shall be located closer than thirty feet (30') to any public street.

It shall not be a violation of this chapter for a camper, tent-trailer, or other overnight sleeping facility to temporarily occupy a dependent mobile home space, but not more than one (1) unit may use each space.

(3) All mobile home spaces shall abut upon a driveway of not less than thirty feet (30') in width which shall have unobstructed access to a public street, alley, or highway. The board of zoning appeals may stipulate an appropriate dust-free surface material to be provided. All driveways shall be lighted at night with twenty-five (25) watt lamps at intervals of one hundred feet (100') located approximately fifteen feet (15') from the ground.

(4) Each park that accepts a dependent trailer shall provide service buildings to house toilet facilities, bathing facilities, laundry facilities, and other sanitary facilities as hereinafter more particularly prescribed.

(5) Paved walkways not less than two feet (2') wide shall be provided from the mobile home spaces to the service buildings. The walkways shall be lighted at night with twenty-five (25) watt lamps at intervals of one hundred feet (100') approximately fifteen feet (15') from the ground.

(6) Electricity. An electrical outlet supplying at least one hundred ten (110) volts shall be provided for each mobile home space, and shall be weatherproof and accessible to the parked mobile home. All electrical installations shall be in compliance with the electrical code and Tennessee Department of Insurance and Banking Regulation No. 15, entitled "Regulation Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization. (1995 Code, § 14-305)

14-306. Location. Mobile home parks for independent mobile homes may be located in any R-2 Residence District. Mobile home parks for dependent mobile homes may be located in any B-2 Business District. (1995 Code, § 14-306)

14-307. Water supply. An adequate supply of water under pressure from a source and of a quality approved by the Tennessee Department of Health shall be provided. Where possible, approved municipal water supplies shall be used. Water shall be piped to each mobile home lot. There shall be a water outlet in each shower room, wash room, laundry room, sink, and night waste container washing facilities. (1995 Code, § 14-307)

14-308. Sanitation facilities. Each park that accepts a dependent trailer shall be provided with toilets, baths or showers, slop sinks, and other sanitation facilities which shall conform to the following requirements:

(1) Toilet facilities for men and women shall be either in separate buildings at least twenty feet (20') apart or shall be separated if in the same building, by a soundproof wall.

(2) Toilet facilities for women shall consist of not less than two (2) flush toilets for every ten (10) dependent mobile home spaces, and two (2) lavatories for every twenty (20) dependent mobile home spaces. Each toilet, shower, and bathtub shall be in a private compartment.

(3) Toilet and urinal facilities for men shall consist of not less than one (1) flush toilet for every ten (10) dependent mobile home spaces, one (1) shower or bathtub for every ten (10) dependent mobile home spaces, one (1) lavatory for every ten (10) dependent mobile home spaces. Each toilet, shower, and bathtub shall be in a private compartment.

(4) Service buildings housing the toilet facilities shall be permanent structures complying with all applicable ordinances and statutes regulating

buildings, electrical installations, plumbing, gas and sanitation systems, and shall be located not closer than fifteen feet (15') or farther than one hundred fifty feet (150') from any dependent mobile home space.

(5) Each service building shall contain at least one (1) slop sink for each sex located in a separate compartment.

(6) The service buildings shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of such moistureproof materials, including painted woodwork, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least seventy degrees (70°) Fahrenheit during the period from October 1 to May 1, and to supply a minimum of three (3) gallons of hot water per hour per mobile home space during time of peak demands. The floors of the service building shall be of concrete or approved tile material and shall slope to a floor drain connected with the sewerage system.

(7) Liquefied petroleum gas. Liquefied petroleum gas for cooking purposes shall not be used at individual mobile home spaces unless the containers are properly connected by copper or other suitable metallic tubing. Liquefied petroleum gas cylinders shall be securely fastened in place and adequately protected from the weather. No cylinder containing liquefied petroleum gas shall be located in a mobile home, nor within five feet (5') of a door thereof.

(8) All service buildings, mobile homes, mobile home spaces, and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any conditions that will menace the health of any occupant or the public or constitute a nuisance. (1995 Code, § 13-308)

14-309. Laundry facilities. When required the laundry facilities shall be provided in the ratio of one (1) double laundry tub and ironing board for every twenty (20) mobile home spaces. An electrical outlet supplying current sufficient to operate an iron shall be located conveniently near the ironing board. Drying spaces shall be provided sufficient to accommodate the laundry of the mobile home occupants. The service building housing the laundry facilities shall be a permanent structure complying with all applicable ordinances and statutes regulating buildings, electrical installations, plumbing, gas, and sanitation systems. (1995 Code, § 14-309)

14-310. Sewage and refuse disposal. Waste from showers, bathtubs, toilets, slop sinks, and laundries shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewer disposal plant or septic tank system of such construction and in such manner to conform to the specifications of the health officer. All kitchen sinks, washbasins, and bath or shower tubs in any mobile home harbored in any park shall empty into the sanitary sink drain located on the mobile home space. Mobile home parks within

three hundred feet (300') of the municipal sewer shall connect thereto with approved and sized lines. (1995 Code, § 14-310)

14-311. Refuse storage, collection and disposal. Storage, collection and disposal of refuse shall be accomplished as provided in title 17, chapter 1, of this code. Satisfactory container racks shall be provided and shall be located not more than one hundred fifty feet (150') from any mobile home. (1995 Code, § 14-311)

14-312. Fire prevention. The mobile home park area shall be subject to the rules and regulations of the fire prevention authorities having jurisdiction. (1995 Code, § 14-312)

14-313. Additions to mobile homes--parking restrictions. No permanent additions of any kind shall be built onto, nor become a part of, any mobile home. Skirting of mobile homes is permissible, but such skirting shall not permanently attach the mobile home to the ground, provide a harborage for rodents, or create a fire hazard. The wheels of the mobile home shall not be removed, except temporarily when necessary for repairs. Jacks or stabilizers may be placed under the frame of the mobile home to prevent movement on the springs while the mobile home is parked and occupied. (1995 Code, § 14-313)

14-314. Register of occupants. It shall be the duty of the licensee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

- (1) Name and address of each occupant.
- (2) The make, model, and year of all automobiles and mobile homes.
- (3) License number and owner of each mobile home and automobile by which it is towed.
- (4) The state issuing such license.
- (5) The dates of arrival and departure of each mobile home.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration. (1995 Code, § 14-314)

14-315. Revocation of license. The health officer shall make periodic inspections of each park to assure compliance with this chapter. In case of non-compliance with any provisions of this chapter, the health officer shall serve warning to the licensee. Thereafter upon failure of the licensee to remove said violation, the health officer shall recommend to the city council revocation of the offending park's license. The city council shall hold a hearing on the matter, and upon determination of non-compliance revoke said license. The license may be

reissued if the circumstances leading to revocation have been remedied and the park can be maintained and operated in full compliance with the law. (1995 Code, § 14-315)

14-316. Posting of license. The license certificate shall be conspicuously posted in the office of, or on the premises of, the mobile home park at all times. (1995 Code, § 14-316)

14-317. Existing mobile home parks. Any mobile home park which is existing at the time of the adoption of the provisions in this chapter or any park which may subsequently become subject to this chapter by annexation shall conform to the provisions of this chapter within not less than three (3) years from the date of adoption or annexation. (1995 Code, § 14-317)

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING¹****CHAPTER**

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. AUTOMATED TRAFFIC SIGNAL ENFORCEMENT AND SPEED DETECTION SYSTEMS.

CHAPTER 1**MISCELLANEOUS²****SECTION**

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. General requirements for traffic-control signs, etc.
- 15-109. Unauthorized traffic-control signs, etc.
- 15-110. Presumption with respect to traffic-control signs, etc.

¹Municipal code references

Excavations and obstructions in streets, etc.: title 16.
Junk vehicles: title 13, chapter 3.

²State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Motorcycles and motor-driven cycles.
- 15-122. Motor vehicle registration.
- 15-123. Adoption of state traffic statutes.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1995 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1995 Code, § 15-102)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1995 Code, § 15-104)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
- (b) When the right half of a roadway is closed to traffic while under construction or repair.
- (c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1995 Code, § 15-105)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1995 Code, § 15-106)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1995 Code, § 15-107)

15-107. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1995 Code, § 15-108)

15-108. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U.S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. (1995 Code, § 15-109, modified)

15-109. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

²This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1995 Code, § 15-110)

15-110. Presumption with respect to traffic-control signs, etc.

When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. (1995 Code, § 15-111)

15-111. School safety patrols.

All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1995 Code, § 15-112)

15-112. Driving through funerals or other processions.

Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1995 Code, § 15-113)

15-113. Clinging to vehicles in motion.

It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1995 Code, § 15-114)

15-114. Riding on outside of vehicles.

It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1995 Code, § 15-115)

15-115. Backing vehicles.

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1995 Code, § 15-116)

15-116. Projections from the rear of vehicles.

Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in

such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1995 Code, § 15-117)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1995 Code, § 15-118)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1995 Code, § 15-119)

15-119. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right. When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1995 Code, § 15-120)

15-120. Damaging pavements. No person shall operate upon any street of the city any vehicle, motor propelled or otherwise, which by reason of

its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1995 Code, § 15-121)

15-121. Motorcycles and motor-driven cycles. (1) Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

(2) No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(3) No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(4) No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

(5) No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor driven cycle while any other person is a passenger upon said motor vehicle.

(6) Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(7) Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(8) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1995 Code, § 15-122)

15-122. Motor vehicle registration. (1) Every motor vehicle owned by any person, firm, or corporation who is a resident of the City of McKenzie, Tennessee, and all motor vehicles owned or used by any person, firm, or corporation who is a resident of the City of McKenzie, Tennessee shall be registered with the City of McKenzie, as hereinafter provided, prior to the use of any such motor vehicle upon the highways, streets, avenues, or alleys within

the corporate limits of the City of McKenzie and if a sticker is issued, it shall be affixed to the lower left hand corner of the rear license plate.

(2) All owners or operators of motor vehicles to which this section is applicable shall register the same on or before the first day of April annually and pay a registration fee of ten dollars (\$10.00). Such registration shall be renewed and the registration fee paid on or before the fifteenth day of April annually hereafter.

(3) When a motor vehicle is registered, as required by the provisions of this section, the city clerk shall obtain the name and address of the owner, and a full description of the motor vehicle, including the make, model, type, motor number and state license number. A record of this information shall be kept by the city clerk and he shall issue to the owner or operator of such vehicle a duplicate of such record which shall also show the amount of the registration fee paid, the time paid, and the number of the tag, emblem, or sticker issued to the owner or operator. The city clerk shall issue to the owner or operator of each motor vehicle registered a tag, sticker, or decal transfer, which shall bear a serial number, and the same shall be firmly attached to said motor vehicle. If a decal transfer is issued, it shall be firmly attached to the lower right hand portion of the windshield so that the same may be readily observed upon the inspection thereof.

(4) Any owner or operator of a motor vehicle subject to the provisions of this section who shall fail, neglect, or refuse to register such motor vehicle, or who shall fail, neglect, or refuse to pay the registration fee herein imposed, or who shall fail, neglect, or refuse to have the tag, sticker, decal transfer, or evidence of his registration thereof attached to the vehicle to which this section is applicable, as herein provided, and who shall operate the motor vehicle subject to the provisions of this section without registration and paying the fee, as herein provided, or who shall in any manner violate any of the provisions of this section shall be guilty of a misdemeanor and on conviction shall be fined under the general penalty clause for this code.

(5) The words "motor vehicle" as used herein, shall mean any vehicle propelled by its own power, provided that this section shall not apply to motor vehicles owned by the State of Tennessee, the County of Carroll, or the United States Government, or any agency thereof. (1995 Code, § 15-123)

15-123. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated § 16-18-302, and Tennessee Code Annotated, § 55-10-307, the City of McKenzie 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 McKenzie adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606, § 55-12-139, and § 55-21-108 by reference as if fully set forth in this section.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1995 Code, § 15-201)

15-202. Operation of authorized emergency vehicles. (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1995 Code, § 15-202)

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1995 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1995 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1995 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1995 Code, § 15-302)

15-303. In school zones. Pursuant to Tennessee Code Annotated, § 55-8-152, the city shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the city council has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1995 Code, § 15-303, modified)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1995 Code, § 15-304)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1995 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1995 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center lines thereof and by passing to the right of the intersection of the center lines of the two (2) roadways. (1995 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1995 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (1995 Code, § 15-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At railroad crossings.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. At pedestrian-control signals.
- 15-509. Stops to be signaled.

15-501. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1995 Code, § 15-502)

15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1995 Code, § 15-503)

15-503. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1995 Code, § 15-504)

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1995 Code, § 15-505)

15-505. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1995 Code, § 15-506)

15-506 At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1995 Code, § 15-507)

15-507. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1995 Code, § 15-508)

15-508. At pedestrian-control signals. Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1995 Code, § 15-509)

15-509. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1995 Code, § 15-510)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Parking restrictions for trucks.
- 15-606. Loading and unloading zones.
- 15-607. Unlawful to occupy more than one parking space.
- 15-608. Presumption with respect to illegal parking.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1995 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall back a vehicle into such a parking space but shall park the vehicle with its front wheels next to the curb or edge of the street. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1995 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies

more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1995 Code, § 15-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the city, nor:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection or within fifteen feet (15') thereof;
- (4) Within fifteen feet (15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within fifty feet (50') of a railroad crossing;
- (7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance;
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (10) Upon any bridge;
- (11) Alongside any curb painted yellow or red by the city. (1995 Code, § 15-604)

15-605. Parking restrictions for trucks. It is unlawful to park, store, or maintain any vehicle of four (4) axles or more or vehicle containing hazardous, corrosive, or explosive material as defined by any statute, law, or regulation of the United States, State of Tennessee, Interstate Commerce Commission, or Public Service Commission of the State of Tennessee, within any area designated as R-1, R-2, or R-3, Residential Area by the McKenzie Regional Planning Commission for any period of time exceeding two (2) hours. (1995 Code, § 15-605)

15-606. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1995 Code, § 15-606)

15-607. Unlawful to occupy more than one parking space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking space or otherwise so that such vehicle is not entirely within the designated parking space; provided, however, that vehicles which are too large to park within one (1) space may be permitted to occupy two (2) adjoining spaces. (1995 Code, § 15-610, modified)

15-608. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1995 Code, § 15-613)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Deposit of driver's license in lieu of bail.
- 15-703. Failure to obey citation.
- 15-704. Illegal parking.
- 15-705. Impoundment of vehicles.
- 15-706. Disposal of abandoned motor vehicles.
- 15-707. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1995 Code, § 15-701)

15-702. Deposit of driver's license in lieu of bail. As authorized by Tennessee Code Annotated, § 55-50-801, any person who is given a traffic citation or is arrested on a warrant issued by the city court and who is lawfully in possession of a chauffeur's or operator's license therefor 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, and who is charged with the violation of any municipal ordinance governing the operation of motor vehicles within the City of McKenzie, Tennessee, shall have the option of depositing his chauffeur's or operator's license with the officer or with the court demanding bail in lieu or any other security required for his appearance in court to answer the charge made. Whenever any person depositing his chauffeur's or operator's license as herein provided, either the officer or the court demanding bail and to whom such license is deposited, shall issue said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety. If the alleged offender fails to appear and answer to the charge filed against him

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

then the clerk or judge of the city court shall thereafter forward to the Tennessee Department of Safety the license of such alleged offender as deposited in lieu of bail which shall be otherwise disposed of as provided by law. (1995 Code, § 15-702)

15-703. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1995 Code, § 15-703)

15-704. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1995 Code, § 15-704, modified)

15-705. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any vehicle which is illegally parked, abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for impounding a vehicle shall be five dollars (\$5.00) and a storage cost of one dollar (\$1.00) per day shall also be charged. (1995 Code, § 15-705)

15-706. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1995 Code, § 15-706)

15-707. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. (a) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the offender may similarly waive his

right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00) within ten (10) and five dollars (\$5.00) thereafter.

(b) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of one hundred dollars (\$100.00). (1995 Code, § 15-704, modified)

CHAPTER 8

AUTOMATED TRAFFIC SIGNAL ENFORCEMENT AND SPEED DETECTION SYSTEMS

SECTION

15-801. Definitions.

15-802. Administration.

15-803. Offense.

15-804. Procedure.

15-805. Civil penalty.

15-806. Miscellaneous.

15-801. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

(1) "Citations and warning notices" shall include:

(a) The name and address of the registered owner of the vehicle;
(b) The registration license plate number of the motor vehicle involved in the violation;

(c) The violation charged;

(d) The location of the violation;

(e) The date and time of the violation;

(f) A copy of the recorded image;

(g) The amount of the civil penalty imposed and the date by which the civil penalty should be paid;

(h) A signed statement by a member of the police department that, based on inspection of recorded images, the motor vehicle was being operated in violation of § 15-803;

(i) A statement that recorded images are evidence of a violation of § 15-803; and

(j) Information advising the person alleged to be liable under this section:

(i) Of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in the McKenzie Municipal Court; and

(ii) Warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(2) "In operation" means operating in good working condition.

(3) "Recorded images" means images recorded by a traffic control photographic system:

(a) On:

(i) A photograph; or

- (ii) A microphotograph; or
- (ii) An electronic image; or
- (iv) A videotape; or
- (v) Any other medium; and

(b) At least one (1) image or portion of the image, clearly identifying the registration number of the motor vehicle.

(4) "Stop line" is a transverse white marking at an approach to an intersection that indicates a point behind which all vehicles must stop when so required by a traffic control sign, signal or device.

(5) "System location" is the approach to an intersection toward which a photographic, video or electronic camera is directed and is in operation.

(6) "Traffic control photographic system" is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control sign, signal or device and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal or device and posted speed limits.

(7) "Vehicle owner" is the person identified by the Tennessee Department of Safety as the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of six (6) months or more. (Ord. #432, Oct. 2008)

15-802. Administration. (1) The McKenzie Police Department or an agent of the department shall administer the traffic control photographic and posted speed limit systems and shall maintain a list of system locations where traffic control photographic systems are installed with the exception of the portable speed control unit. The city may contract with third parties to perform ministerial and clerical functions.

(2) Any citation or warning for a violation of § 15-803 issued by an officer of the McKenzie Police Department at a system location shall be treated in the manner prescribed in this chapter.

(3) No third party contractor shall have the authority to issue citations and no citations shall be issued except upon the review of the photograph(s), digital and/or video images by the McKenzie Police Department. Upon review of such images by the McKenzie Police Department, on each case, and upon express approval for the issuance of a citation by the McKenzie Police Department, a third party contractor may perform ministerial and clerical functions of preparing, mailing, serving and/or processing citations.

(4) The city shall adopt procedures for the issuance of citations and warnings under this section. A citation or warning alleging that the violation of § 15-803 of this chapter occurred, sworn to or affirmed by officials or agents of the city, based on inspection of recorded images produced by a traffic control photographic system, shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under this chapter. The citation or warning shall be forwarded by first-class mail

postmarked no later than thirty (30) days after the date of the alleged violation, to the vehicle owner's address as given on the motor vehicle registration records maintained by the State of Tennessee Department of Safety and other states' motor vehicle registration departments. Personal delivery to or personal service of process on the owner of the vehicle shall not be required.

(5) Signs to indicate the use of traffic control photographic systems shall be clearly posted. Signs to indicate the use of traffic control photographic systems shall be posted in advance of individual system locations and may be posted elsewhere in the city.

(6) The City of McKenzie shall have all necessary power and authority to contractually provide for the purchase, lease, and rental acquisition and/or to enter a service contract(s) so as to fully and necessarily implement the provisions of the traffic control photographic system authorized hereby. (Ord. #432, Oct. 2008)

15-803. Offense. It shall be unlawful for a vehicle to cross the stop line at a system location, in disregard or disobedience of the traffic control sign, signal or device at such location, posted speed limits on city streets or to otherwise violate any section of the McKenzie Municipal Code with respect to obedience to traffic lights, stop signs, speed limits or traffic signals.

The owner of a vehicle shall be responsible for a violation under this chapter, except as provided herein. When such owner provides evidence in accordance with the procedures set forth in § 15-804(2) that the vehicle was in the care, custody or control of another person at the time of the violation, the person who had the care, custody and control of the vehicle at the time of the violation shall be responsible. (Ord. #432, Oct. 2008)

15-804. Procedure. (1) A person who receives a citation or notice of violation under this chapter may:

(a) Pay the civil penalty, in accordance with instructions on the citation or notice; or

(b) Elect to contest the citation for alleged violation in a hearing before the City Judge of the McKenzie Municipal Court, in accordance with the instructions on the citation or notice.

(2) Liability under this chapter shall be determined based upon the preponderance of the evidence. The submission of a citation or notice of violation containing photographic, digital, or electronic images indicating a violation along with the name and address of the registered owner shall constitute prima facie proof that a violation occurred and that the registered owner is liable for the violation. Such proof may be rebutted by the following:

(a) Proof that the vehicle in the photograph or other image does not materially match the registration information. The indication of the wrong color on the registration information shall not be a material deviation;

(b) The registered owner furnishes to the city court, prior to the return date established on the citation or notice of violation, a sworn notarized affidavit or sworn statement under penalty of perjury, that the vehicle was under the care, custody or control of another person or entity at the time of the violation and accurately identifying the name and current address of the person who leased, rented or otherwise had possession and/or control of the vehicle at the time of the alleged violation; or

(c) The registered owner furnishes to the city court, prior to the return date established on the citation or notice of violation, a certified copy of a police report showing that the vehicle or the registration/license plates had been reported to the police as stolen prior to the time of the alleged violation or within a timely manner after the alleged theft occurred; or

(d) In the case of a commercial vehicle with a registered gross weight of ten thousand (10,000) pounds or more, a tractor vehicle, a trailer operated in combination with a tractor vehicle or a passenger bus, in order to demonstrate that said owner was not the violator, the owner shall send a statement under penalty of perjury by certified mail, return receipt requested, to the municipal court stating that the owner was not the operator and the person's name, address, and driver's license identification number who was operating the vehicle at the time of the violation.

(3) In the event the owner identifies, under penalty of perjury, a person or entity who had possession, care, custody and control of the vehicle at the time of the alleged violation, then the city shall issue a citation or notice of violation to the person or entity so identified. (Ord. #450, Oct. 2011)

15-805. Civil penalty. (1) Any violation of this chapter shall be deemed a civil violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed.

(2) Failure to pay the civil penalty by the designated date, or to appear in court to contest the citation on the designated date, or to otherwise provide the information in the manner required under § 15-804 shall be deemed an admission of liability and indebtedness to the City of McKenzie of fifty dollars (\$50.00) and shall result in the imposition of a judgment by default of fifty dollars (\$50.00) plus the assessment of court costs and litigation tax as otherwise provided for under the McKenzie Municipal Code and the statutes of the State of Tennessee for non-parking offenses. The city may collect said debt in the same manner as any other debt owed to the city.

(3) If the owner of the vehicle contests the citation or notice of violation and the court rules same is valid, then such judgment shall result in the imposition of a judgment of fifty dollars (\$50.00) plus the assessment of court costs and litigation tax as otherwise provided under the McKenzie Municipal

Code and the statutes of the State of Tennessee for non-parking offenses. The city may collect said debt in the same manner as any other debt owed to the city. (Ord. #450, Oct. 2011)

15-806. Miscellaneous. All recorded images generated by the traffic control photograph system and portable speed photographic system, including, but not limited to, photographs, electronic images, and videotape, shall be solely owned by the City of McKenzie. (Ord. #432, Oct. 2008)

TITLE 16**STREETS AND SIDEWALKS, ETC¹****CHAPTER**

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. UNIFORM PROPERTY NUMBERING SYSTEM.

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

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Posting signs and notices.
- 16-114. Basketball goals on streets.
- 16-115. Dirt, dust, debris and trash from construction sites on city roads.
- 16-116. Skateboards and skate regulations.

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. (1995 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley at a height of less than fourteen feet (14'). (1995 Code, § 16-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited.

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1995 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. (1995 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 council. (1995 Code, § 16-105)

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. (1995 Code, § 16-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, grass 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. (1995 Code, § 16-107, as replaced by Ord. #533, Sept. 2020 *Ch1_02-11-21*)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch by grass or any other obstruction in any public right-of-way. (1995 Code, § 16-108, as replaced by Ord. #533, Sept. 2020 *Ch1_02-11-21*)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean of grass and grass clippings. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1995 Code, § 16-109, as replaced by Ord. #533, Sept. 2020 *Ch1_02-11-21*)

16-110. Parades, etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city clerk. No permit shall be issued by the city clerk

unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1995 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 interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1995 Code, § 16-112)

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. (1995 Code, § 16-113)

16-113. Posting signs and notices. The following regulations shall govern the posting of signs and notices within the city.

(1) Before displaying advertising posters of any kind the organization or individual proposing to display such advertising posters other than those attached to stakes erected in consented private yards shall deposit with the city clerk fifty dollars (\$50.00) to guarantee their removal within forty-eight (48) hours after the completion of such event. Failure to make such removal shall result in forfeiture of the deposit guarantee.

(2) Advertising not so removed shall be removed by the city.

(3) Any advertising attached to trees, utility poles and in any other manner in violation of the Tennessee state laws shall result in forfeiture of the deposit guarantee. This forfeiture shall not exempt anyone from prosecution for the violation of any state laws.

(4) In the case of political primary advertising, such advertising as may also apply to a general election candidate shall be exempt from the forty eight (48) hour limit; however, all such advertising both primary and general shall be removed within the forty eight (48) hour limit after the close of the general election. (1995 Code, § 16-114)

16-114. Basketball goals on streets. (1) No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street within the municipal limits of the City of McKenzie, Tennessee so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-way or the presence of persons within a public street playing basketball on such a goal shall be a violation of this section.

(2) Any violation of this section shall be punishable by a fine of fifty dollars (\$50.00). (1995 Code, § 16-115)

16-115. Dirt, dust, debris and trash from construction sites on city roads. It shall be unlawful to allow dirt, dust, debris, and trash from construction sites to accumulate on city streets or neighboring property. Contractors must use dust and dirt control methods to prevent city streets and neighboring property from being contaminated with dirt and dust from construction sites. Contractors shall use dust control to keep dust from accumulating on city streets and to prevent dust accumulations on neighboring property.

Violation of this section shall be punishable by a penalty under the general penalty provision of this code.

16-116. Skateboards and skate regulations. (1) Prohibition. It shall be unlawful for any person to skate utilizing a skateboard, roller skates, in-line skates, roller blades, heelies, heel skates or any like type conveyance in the historic district, downtown business district, or any place where such activity disrupts traffic, either motorized or pedestrian, or business operations or creates a danger to bystanders. No bicycles on the sidewalks in the downtown historic district.

(2) Skate park. The city has built a skateboard park for the purpose of providing a location for said skate activities to take place in a regulated and legal environment subject to the park's posted rules and regulations. All skating activities are encouraged to take place only in the park.

(3) Any violation of this section shall be punishable by a fine of fifty dollars (\$50.00). (as added by Ord. #480, April 2014 **Ch1_02-11-21**)

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city clerk is open for business, and said permit shall be retroactive to the date when the work was begun. (1995 Code, § 16-201)

16-202. Applications. Applications for such permits shall be made to the city clerk, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the city clerk within twenty-four (24) hours of its filing. (1995 Code, § 16-202)

16-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five feet (25') in length; and twenty-five cents (\$0.25) 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. (1995 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the city clerk a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00), if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area, and shall insure the proper restoration of the ground and laying of the pavement, if any, except that where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city clerk 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 city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city 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 clerk a surety bond in such form and amount as the city clerk shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1995 Code, § 16-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1995 Code, § 16-205)

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 city shall restore said 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 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 clerk 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 city 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 city, 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. (1995 Code, § 16-206)

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 recorder 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 each accident.

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 city if the city 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 clerk. (1995 Code, § 16-208)

16-209. Supervision. The city clerk 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. (1995 Code, § 16-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the city clerk. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width

at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property, a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1995 Code, § 16-210)

CHAPTER 3

UNIFORM PROPERTY NUMBERING SYSTEM

SECTION

- 16-301. Uniform numbering system established.
- 16-302. Assignment of number.
- 16-303. Administration.
- 16-304. Violations and penalties.

16-301. Uniform numbering system established. A uniform system of numbering properties and principal buildings, as shown on the maps identified by the title "property numbering system" which are filed in the office of the city clerk, are hereby adopted for use in the City of McKenzie. These maps and all explanatory matter thereon, are hereby adopted and made a part of this chapter. (1995 Code, § 16-301)

16-302. Assignment of number. The following regulations shall govern the assignment of property numbers within the corporate limits:

(1) All properties or parcels of land within the corporate limits of McKenzie shall hereafter be identified by reference to the uniform numbering system adopted herein, provided: all existing numbers of property and buildings not in conformity with provisions of this chapter shall be changed to conform to the system herein adopted within six (6) months from the date of passage of this chapter or whenever uniform system is completed, whichever is later.

(2) A separate number shall generally be assigned for each forty feet (40'), except for the Central Business District which will be assigned a separate number for each fifteen feet (15') of frontage.

(3) Whenever possible, each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one (1) business or dwelling unit, only one (1) number will be assigned and each separate unit will carry a letter designation, such as A, B, C, in addition to the number assigned the principal building.

(4) In cases of group housing projects with private streets, only one (1) number will be assigned to the drive or court. The number assigned to the drive will then become the street address of all units facing the drive or court. Separate units would carry the street number as well as the apartment number.

(5) Numerals indicating the official number of each principal building shall be posted in a manner as to be visible from the street on which the property is located.

(6) Whenever any house, building, or structure shall be erected or located in the City of McKenzie after the establishment of the uniform numbering system and after the house, building or structure is complete, it shall

be the duty of the owner to procure the correct number or numbers from the city clerk for the said property and to immediately fasten the said number of numbers so assigned upon said building as provided by this chapter. (1995 Code, § 16-302)

16-303. Administration. (1) The city clerk, with assistance from the McKenzie Planning Commission, shall be responsible for maintaining the numbering system.

(2) The city clerk shall keep a record of all numbers assigned under this chapter.

(3) The city clerk shall issue to any city property owner upon request and without charge a set of numerals for each principal building. In doing so, the clerk shall issue only numerals for the numbers assigned to such building under the provisions of this chapter and shall not include letter designations, such as A, B, and C. Provided, however, that the clerk may issue additional numerals in accord with the official numbering system whenever a property has been subdivided, a new front entrance opened, or undue hardship has been worked on any property owner. (1995 Code, § 16-303)

16-304. Violations and penalties. Violation of this chapter shall be a misdemeanor which may be punished by a fine pursuant to the general penalty provision of this municipal code of ordinances. (1995 Code, § 16-304)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

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. Refuse collection fees.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, grass and grass clippings, 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. (1995 Code, § 17-101, as replaced by Ord. #533, Sept. 2020 *Ch1_02-11-21*)

17-102. Premises to be kept clean. All persons within the city 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. (1995 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city 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. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles

¹Municipal code reference

Property maintenance regulations: title 13.

mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two feet (2') thick before being deposited for collection. (1995 Code, § 17-103)

17-104. Location of containers. Where alleys are used by the city refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city 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 by the city 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. (1995 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. (1995 Code, § 17-105)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed and disposed of under the supervision of such officer as the city council shall designate. Collections shall be made regularly in accordance with an announced schedule.

No person, firm or corporation shall collect refuse unless he has a permit from the city health officer. Such a permit may be issued only after the applicant's capability of complying with the requirements of this chapter have been fully determined. Any such permit may be suspended or revoked for the violation of any of the terms of this chapter. (1995 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. (1995 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 city council is expressly prohibited. The disposal of refuse shall be by methods approved by the State of Tennessee and shall provide for the maximum practical rodent, insect, and nuisance control at the place of disposal. (1995 Code, § 17-108)

17-109. Refuse collection fees. Refuse collection service shall be provided under such rate schedules as the city council may from time to time adopt by ordinance or resolution.¹ (1995 Code, § 17-109)

¹Administrative ordinances and resolutions are of record in the office of the city clerk.

TITLE 18**WATER AND SEWERS¹****CHAPTER**

1. WATER AND SEWER ADMINISTRATION.
2. WASTEWATER COLLECTION AND TREATMENT.
3. REGULATIONS GOVERNING PUBLIC AND PRIVATE SEWAGE DISPOSAL.
4. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1**WATER AND SEWER ADMINISTRATION****SECTION**

18-101. Rates and charges.

18-102. Water fluoridation.

18-101. Rates and charges. The water and sewer system shall be supervised and controlled by the board of councilmen. All water and sewer service shall be furnished according to schedules setting rates, tap on fees and other charges as the city council may from time to time adopt. (1995 Code, § 18-103, modified)

18-102. Water fluoridation. The Water Department of the City of McKenzie is hereby authorized and instructed to make plans for the fluoridation of the water supply of the city, to submit such plans to the Department of Environment and Conservation of the State of Tennessee for approval, and upon approval to add such chemicals as fluoride to the water supply, in accord with such approval, as will adequately provide for the fluoridation of the water supply.

The cost of such fluoridation shall be borne by the revenues of the water department of the City of McKenzie. (1995 Code, § 18-104, modified)

¹Municipal code reference
Refuse disposal: title 17.

CHAPTER 2

WASTEWATER COLLECTION AND TREATMENT

SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Abbreviations.
- 18-204. Requirements for proper sewage disposal.
- 18-205. Building sewer permits and proper connections.
- 18-206. General discharge prohibitions.
- 18-207. Federal categorical pretreatment standards.
- 18-208. Modification of federal categorical pretreatment standards.
- 18-209. State requirements.
- 18-210. City's right of revision.
- 18-211. Excessive discharge.
- 18-212. Accidental discharges.
- 18-213. Hazardous waste discharges.
- 18-214. Affirmative defenses.
- 18-215. Fees.
- 18-216. Wastewater discharges.
- 18-217. Wastewater discharge permits.
- 18-218. Reporting requirements for permittee.
- 18-219. Administrative enforcement remedies.
- 18-220. Judicial and supplemental enforcement remedies.

18-201. Purpose and policy. (1) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of McKenzie and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 C.F.R., part 403).

(2) The objectives of this chapter are:

(a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(d) To provide for equitable distribution of the cost of the municipal wastewater system.

(3) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(4) This chapter shall apply to the City of McKenzie and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided herein, the superintendent of the city POTW shall administer, implement, and enforce the provisions of this chapter. (1995 Code, 18-201)

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. 1251, *et seq.*

(2) "Approval authority." The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty degrees (20°) Centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards." The national categorical pretreatment standards or pretreatment standard.

(7) "City." The City of McKenzie or the City Council of McKenzie.

(8) "Cooling water." The water discharge from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(9) "Control authority." The term "control authority" shall refer to the "approval authority," defined hereinabove; or the superintendent if the city has an approved pretreatment program under the provisions of 40 C.F.R. 403.11.

(10) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(11) "Environmental Protection Agency, or EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(12) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(13) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(14) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(15) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. 1342).

(16) "Interference." The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(17) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(18) "National prohibitive discharge standard or prohibitive discharge standard." Any regulation developed under the authority of 307(b) of the Act and 40 C.F.R., section 403.5.

(19) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the Federal Register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new

source means any source, the construction of which is commenced after the date of promulgation of the standard.

(20) "National Pollution Discharge Elimination System or NPDES permit." A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

(21) "Person." Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(22) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(23) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(24) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(25) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or by other means, except as prohibited by 40 C.F.R. section 403.6(d).

(26) "Pretreatment requirements." Shall mean any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(27) "Process water." Shall mean "industrial wastes" as described in this section.

(28) "Public sewer." A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

(29) "Publicly Owned Treatment Works (POTW)." A treatment work as defined by section 212 of the Act, which is owned by the municipality. This definition includes any sewers that convey wastewater to such a treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term also means the municipality as defined in section 502(A) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(30) "Replacement." Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the wastewater treatment works to maintain the capacity and performance for which such works were designed and constructed. The term operations and maintenance includes replacement.

(31) "Sanitary sewer." A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

(32) "Sanitary wastewater." Liquid wastes discharges from the sanitary conveniences at dwellings (including apartment houses and motels), office buildings, industrial plants, or institutions and from the non-commercial preparation, cooking and handling of food, as distinct from industrial wastes.

(33) "Sewage or wastewater." A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

(34) "Significant industrial user." 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 any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant or is designated as such by the control authority as defined in 40 C.F.R. 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 C.F.R. 403.8(f)(6)).

(35) "Significant non-compliance." A situation that meets any of the following:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH).

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

(36) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(37) "Superintendent." The person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this section or his duly authorized representative.

(38) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(39) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(40) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(41) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulation 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.

(42) "Wastewater contribution permit." As set forth in § 18-217 of this chapter. (1995 Code, § 18-202)

18-203. Abbreviations. The following abbreviations shall have the designated meanings:

BOD	-	Biochemical Oxygen Demand
C.F.R.	-	Code of Federal Regulations
COD	-	Chemical Oxygen Demand
EPA	-	Environmental Protection Agency
l	-	Liter
mg	-	Milligrams

mg/l	-	Milligrams per liter
NPDES	-	National Pollutant Discharge Elimination System
POTW	-	Publicly Owned Treatment Works
SIC	-	Standard Industrial Classification
SWDA	-	Solid Waste Disposal Act, 42 U.S.C. 6901, <u>et seq.</u>
U.S.C.	-	United States Code
TSS	-	Total Suspended Solids. (1995 Code, § 18-203)

18-204. Requirements for proper sewage disposal. (1) Disposal of human and animal excrements. It shall be unlawful for any user to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of McKenzie or any area under the jurisdiction of the said city, any human or animal excrement, garbage, or other objectionable waste.

(2) Discharge of sewage or polluted waters. It shall be unlawful to directly discharge to any natural outlet within the City of McKenzie or in any area under the jurisdiction of the said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Septic tank, cesspool, privy vault, and privy construction. Except as hereafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) Requirements of sewer connections. The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, 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 this chapter, within ninety (90) days after date of official notice to do so.

(5) Private sewage disposal. The disposal of sewage by means other than the use of the available sanitary sewer system shall be in accordance with local, county, state and federal law. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the available sanitary sewage system is not available. (1995 Code, § 18-204)

18-205. Building sewer permits and proper connections. (1) Sewer connections. No unauthorized user shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the superintendent.

(2) Building sewer permits. There shall be two (2) classes of building sewer permits;

(a) For residential and commercial service, and

(b) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the city. Their permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A review and inspection fee of ten dollars (\$10.00) shall be paid to the city at the time the application is filed. If it is determined that the user is classified as a significant industrial user, a significant industrial user discharge permit shall be issued. A permit fee of three hundred fifty dollars (\$350.00) shall be paid to the city prior to permit issuance.

(3) Cost of sewer connection. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. This includes any tap and/or hook-up charges which may apply. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(4) Users per connection. A separate and independent building sewer shall be provided for every building except where the superintendent approves more than one connection to a septic tank as provided by the requirements of this chapter. No more than three (3) connections shall ever be made to a single septic tank.

(5) Use of existing sewer connection. Old building sewers, particularly existing service line, may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

(6) Design consideration for building sewers. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the following requirements:

(a) The minimum size of a building sewer shall be four inches (4").

(b) The minimum depth of a building sewer shall be eighteen inches (18").

(c) Four inch (4") building sewers shall be laid on a grade greater than one-eighth inch (1/8") per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(d) Slope and alignment of all building sewers shall be neat and regular.

(e) Building sewers shall be constructed only of:

(i) Concrete or clay sewer pipe using rubber or neoprene compression joints of approved type;

(ii) Cast iron soil pipe with compression joints;

(iii) Polyvinyl chloride pipe with solvent welded or with rubber compression joints of approved type; or

(iv) Such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be acceptable.

(f) A cleanout shall be located five feet (5') outside of the building, one as it taps onto the utility lateral and one at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of four inch (4") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4") on a four inch (4") pipe.

(g) Connections of building sewers to the public sewer system shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or installing a tee-saddle or tee-insert of a type approved by the superintendent. All such connections shall be made gas-tight and watertight.

(h) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth inch (1/8") per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(i) The methods to be used in excavation, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(j) An installed building sewer shall be gas tight and water tight.

(7) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the superintendent to meet specifications of the city.

(8) Illegal connections. No user shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of uncontaminated surface runoff or groundwater to a building sewer or building which in turn is connected directly or indirectly to a public sanitary sewer.

(9) Design considerations for connecting building and public sewers. The connection of the building sewer into the public sewer shall conform to the requirement of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(10) Inspection of building sewers. The applicant for the building sewer permit shall notify the superintendent when the building is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative. (1995 Code, § 18-205)

18-206. General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment

facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty degrees (40° C) Celsius (one hundred four degrees (104°) F) unless the POTW treatment plant is designed to accommodate such temperature.

(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load

have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(11) Any wastewater containing any radioactive waste or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(12) Any wastewater which causes a hazard to human life or creates a public nuisance.

(13) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(14) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(15) Any trucked or hauled pollutants except at discharge points designated by the POTW.

When the superintendent determines that a user(s) is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the superintendent shall:

(a) Advise the user(s) of the impact of the contribution on the POTW; and

(b) Develop effluent limitation(s) for such user to correct the interference with the POTW. (1995 Code, § 18-206)

18-207. Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 C.F.R., section 403.12. (1995 Code, § 18-207)

18-208. Modification of federal categorical pretreatment standards. Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system ninety-five percent (95%) of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) of (title 40 of the Code of Federal Regulations, part 403) - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the federal

pretreatment standards if the requirements contained in 40 C.F.R., part 403, section 403.7, are fulfilled and prior approval from the approval authority is obtained. (1995 Code, § 18-208)

18-209. State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter. (1995 Code, § 18-209)

18-210. City's right of revision. The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 18-201 of this chapter. (1995 Code, § 18-210)

18-211. Excessive discharge. No user shall ever increase the use of process water or, in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state. (Comment: Dilution may be an acceptable means of complying with some of the prohibitions set forth in § 18-206, e.g., the pH prohibition.) (1995 Code, § 18-211)

18-212. Accidental discharges. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. All existing users shall complete such a plan within one hundred eighty (180) days from adoption of this chapter. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(1) **Written notice.** Within five (5) days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or

property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

(2) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. #324, Nov. 1991)

18-213. Hazardous waste discharges. The industrial user shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 281. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. part 281, 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 of such waste per calendar month to the POTW, 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 notification must take place within one hundred eighty (180) days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 C.F.R. 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements or 40 C.F.R. 403.12 (b), (d), and (e). (1995 Code, § 18-213)

18-214. Affirmative defenses. A user shall have an affirmative defense in any action brought against it alleging a violation where the following exist:

(1) Treatment upsets. (a) Any industrial user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation, shall inform the superintendent thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five (5) days. The report shall contain:

(i) A description of the upset, its cause(s), and impact on the discharger's compliance status;

(ii) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored;

(iii) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.

(b) An industrial user which complies with the notification provisions of this section in a timely manner shall have an affirmative defense to any enforcement action brought by the superintendent for any noncompliance with this chapter, or an order or permit issued hereunder by the user, which arises out of violations attributable to and alleged to have occurred during the period of the documented and verified upset.

(2) Treatment bypasses. (a) A bypass of the user's treatment system is prohibited unless all of the following conditions are met:

(i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and

(iii) The industrial user properly notified the superintendent as described in paragraph (b) below.

(b) Industrial users must provide immediate notice to the superintendent upon discovery of an unanticipated bypass. If necessary, the superintendent may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass, and steps being taken to prevent its recurrence.

(c) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the superintendent at least ten (10) days in advance. The superintendent may only approve the anticipated bypass if the circumstances satisfy those set forth in paragraph (a) above. (1995 Code, § 18-214)

18-215. Fees. (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the City of McKenzie which will enable it to comply with the revenue requirements of section 204 of the Clean Water Act. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program to ensure that sufficient revenues are collected to defray the cost of operating and maintaining, including replacement, adequate wastewater collection and treatment systems. Specific charges and fees shall be

adopted by a separate ordinance, this section describes the procedure to be used in calculating the charges and fees. Additional charges and fees to recover funds for capital outlay, bond service costs, and capital improvements may be assessed by the City of McKenzie. These charges and fees shall be recovered through the user classification established below.

(2) Classification of user. All users shall be classified by the superintendent either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics.

(3) Type of charges and sewer fees. The charges and fees as established in treatment works schedule of charges and fees, may include, but not be limited to:

- (a) User classification charges;
- (b) Fees for monitoring requested by user;
- (c) Fees for permit applications;
- (d) Appeal fees;
- (e) Charges and fees based on wastewater constituents and characteristics;
- (f) Fees for use of garbage grinders;
- (g) Fees for holding tank wastes;
- (h) Charges for compliance monitoring;
- (i) Permit issuance fee;

(4) Basis of determination of charges. Charges and fees may be based upon a minimum basic charge for each premise, computed on the basis of "normal wastewater" from a domestic premise with the following characteristics:

BOD	300 milligrams per liter
COD	600 milligrams per liter
TKN	60 milligrams per liter
NH3-N	30 milligrams per liter
Suspended solids	300 milligrams per liter
Fats, oil and grease	100 milligrams per liter

The charges and fees for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for permitted users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, SS, NH as N, chlorine demand, and volume.

(5) User charges. Each user shall be levied a charge for payment of bonded indebtedness of the treatment system and for that user's proportionate

share of the operations and maintenance costs of the system. A surcharge will be levied against those users with wastewater that exceeds the strength of "normal wastewater."

(a) Operation and maintenance user charges: Each user's share of operation and maintenance costs will be computed by the following formula:

$$Cu = \frac{Ct}{Vt} \times (Vu)$$

Where:

Cu	=	User's charge for O & M per unit of time.
Ct	=	Total O & M cost per unit of time.
Vt	=	Total volume contribution from all users per unit of time.
Vu	=	Volume contribution from a user per unit of time.

Operation and maintenance charges may be established on a percentage of water use charge only in the event that water use charges are based on a constant cost per unit of consumption.

(b) Surcharges: The surcharge will be the user's proportionate share of the O & M costs for handling its periodic volume of wastewater which exceeds the strength of BOD, suspended solids, and/or other elements in "normal wastewater" excluding "toxic wastes". The amount of the surcharge shall be determined by the following formula:

$$Cs = [(Bc \times B) + (Sc \times S) + (Pc \times P)] Vi$$

Where:

Cs	=	Surcharge for wastewaters exceeding the strength of "normal wastewater" expressed in dollars per billing period.
Bc	=	O & M cost for treatment of a unit of BOD expressed in dollars per pound.
B	=	Concentration of BOD from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.
Sc	=	O & M costs for treatment of a unit of suspended solids expressed in dollars per pound.
S	=	Concentration of suspended solids from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.
Pc	=	O & M cost for treatment of a unit of any pollutant which the publicly-owned treatment

		works is committed to treat by virtue of an NPDES permit or other regulatory requirement expressed in dollars per pound.
P	=	Concentration of any pollutant from a user above base level. Base levels for pollutants subject to surcharges will be established by the superintendent.
V _i	=	Volume contribution of a user per billing period. (Expressed in thousands of gallons).

The values of parameters used to determine user charges may vary from time to time. Therefore, the superintendent is authorized to modify any parameter or value as often as necessary. Review of all parameters and values shall be undertaken whenever necessary; but in no case less frequently than annually.

(6) Notification. Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(7) Biennial review of operation and maintenance charges. The City of McKenzie shall review not less often 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 revise the charges for users or user classes to accomplish the following:

- (a) Maintain the proportionate distribution of operation and maintenance costs among users and user classes as required herein;
- (b) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and
- (c) Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly.

(8) Appeal procedure. A user shall have the right to appeal any and all charges and fees assessed against him. The procedure shall be as follows:

A written notice, signed by the user seeking an appeal hearing, shall be delivered by registered mail to the superintendent outlining the fees and charges which the user wishes to appeal. The superintendent shall then have thirty (30) days from the time of receipt of the notice to notify the McKenzie City Council that an appeal hearing will be held. A hearing shall then be conducted and all grievances alleged by the user shall be discussed, and appropriate decisions rendered by the superintendent. Any decisions which, in the judgment of the user, are inappropriate may be appealed to the Mayor and City Council of McKenzie by filing a written notice with said commission within fourteen (14) days after completion of the first hearing. The Mayor and City Council of McKenzie shall then have forty-five (45) days in which to convene a meeting of

the Mayor and City Council of McKenzie to hear all unresolved grievances and issues appropriate to decisions.

Nothing in this section shall affect a person's right to appeals provided by state law.

(9) Wastewater characteristics. The wastewater characteristics of each industrial user shall be determined by monitoring or, where monitoring is not feasible, wastewater characteristics may be estimated using historical records, data from similar industrial users, etc. After initiation of the charges and fee system, major industrial users shall be monitored on a regular basis, not less often than annually. Monitoring of minor industries may be done intermittently. Monitoring shall be conducted during periods of normal discharge. (1995 Code, § 18-215)

18-216. Wastewater discharges. It shall be unlawful to discharge without a city permit to any natural outlet within the City of McKenzie, or in any area under the jurisdiction of said city, and/or to the POTW any wastewater except as authorized by the superintendent in accordance with the provisions of this chapter. (1995 Code, § 18-216)

18-217. Wastewater discharge permits. (1) General permits. All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW.

(2) Permit application. Users required to obtain a wastewater contribution permit shall complete and file with the city, an application in the form prescribed by the city, and accompanied by the appropriate fee. Proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address, and location, (if different from the address).

(b) SIC number according to the Standard Industrial Classification Manual, Office of Management and Budget, 1972, as amended.

(c) Wastewater constituents and characteristics including but not limited to those mentioned in §§ 18-206 through 18-214 of this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 C.F.R., part 136, as amended.

(d) Time and duration of contribution.

(e) Average daily and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation.

(g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged.

(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the 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 for the user to meet applicable pretreatment standards.

(i) If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to this schedule:

(i) The schedule shall contain increments of progress 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(ii) No increment referred to in paragraph (i) shall exceed nine (9) months.

(iii) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(j) Each product produced by type, amount, process or processes and rate of production.

(k) Type and amount of raw materials processed (average and maximum per day).

(l) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

(m) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater contribution permit subject to terms and conditions provided herein.

(3) Permit modifications. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by § 18-217(2), the user shall apply for a wastewater contribution permit within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the superintendent within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by paragraph (h) and (i) of § 18-217(2).

(4) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

- (a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (b) Limits on the average and maximum wastewater constituents and characteristics;
- (c) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- (d) Requirements for installation and maintenance of inspection and sampling facilities;
- (e) Specifications for monitoring programs which may include sampling, locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (f) Compliance schedules;
- (g) Requirements for submission of technical reports or discharge reports (see § 18-218);
- (h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;
- (i) Requirements for notification of the city or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater treatment constituents being introduced into the wastewater treatment system;

- (j) Requirements for notification of slug discharges as per § 18-213;
- (k) Statement of permit duration;
- (l) Requirements for permit transfer;
- (m) Statements of civil and criminal penalties are set forth under this chapter;
- (n) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(5) Permit duration. A permit shall be valid for a maximum of two (2) years. A permit may be issued for a lesser period of time with a specified expiration date. It shall be the responsibility of the user to submit for permit reissuance a minimum of one hundred eighty (180) days prior to expiration. Discharge to the sewer system after expiration of a permit shall be considered an unlawful connection and is subject to the provision of § 18-220.

(6) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (1995 Code, § 18-217)

18-218. Reporting requirements for permittee. (1) Compliance date report. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements.

(2) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the

average daily flow reported in the application for permit. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted. If the user monitors pollutants at times more frequent than those required by the POTW, the user shall also include this information in its scheduled report to the POTW.

(b) The superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 C.F.R., part 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. (Comment: Where 40 C.F.R., part 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.)

(c) If sampling performed by an industrial user indicates a violation, the user shall notify the POTW within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results to the POTW. The report sampling and analysis shall be completed not later than thirty (30) days after becoming aware of the violation.

(d) If, in the opinion of the city, the installation of additional control technology may be required to remedy or avoid a violation of ordinance or sewer user permit, within sixty (60) days from notice by the city, the user shall submit a compliance schedule for installation of equipment as deemed necessary by the city.

(3) Signatory requirements. All reports issued by the industrial user to the POTW shall contain the following statement signed by an officer of the company or duly appointed representative as set forth by 40 C.F.R. § 403.12(l).

I certify under penalty of law that this document, and all a attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(4) Monitoring facilities. The city shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage system. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring, facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the city.

(5) Inspection and sampling. The city shall inspect the facilities and take wastewater samples of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Times of such inspections may or may not be scheduled in advance with the user. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The city approval authority and (where the NPDES state is the approval authority), EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or testing. At a minimum, the city shall conduct a scheduled inspection and take samples once a year. The POTW shall contact the IU to schedule the inspection prior to visiting the site. At a minimum, one (1) additional unscheduled inspection may occur during the remainder of the year. Charges for all compliance monitoring including sampling and testing by the city shall be paid by the user.

(6) Maintenance of records. Record-keeping requirements. Any industrial user subject to the reporting requirements established in this section

shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods use; and
- (e) The results of the analyses.

Any industrial user subject to the reporting requirements established in this section shall be required to retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the director and the regional administrator (and POTW in the case of an industrial user.) This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the director or the regional administrator.

(7) Confidentiality of information. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten (10) day notification is given to the user. (1995 Code, § 18-218)

18-219. Administrative enforcement remedies. (1) Notification of violation. Whenever the superintendent finds that any user has violated or is violating this chapter, or a wastewater permit or order issued hereunder, the superintendent or his agent may serve upon said user written notice of the violation. Within ten (10) days of the receipt date 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 to the superintendent. 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.

(2) Consent orders. The superintendent is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified

by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to § 18-219(4).

(3) Show cause hearing. The superintendent may order any user which causes or contributes to violation of this chapter or wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

(4) Compliance order. When the superintendent finds that a user has violated or continues to violate the ordinance or a permit or order issued thereunder, he may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(5) Cease and desist orders. When the superintendent finds that an industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(a) Comply forthwith;

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(6) Administrative fines. Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined in an amount not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the superintendent shall have such other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the superintendent to reconsider the fine within ten (10) days of being notified of the fine. Where the superintendent believes a request has merit, he shall convene a hearing on the matter with fifteen (15) days of receiving the request from the industrial user.

(7) Emergency suspensions. (a) The superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user, whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(b) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The superintendent shall allow the user to recommence its discharge when the endangerment has passed unless the termination proceedings set forth in § 18-219(8) are initiated against the user.

(c) An industrial user which is responsible, in whole or part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the superintendent prior to the date of the hearing described in paragraph (b) above.

(8) Termination of permit. Significant industrial users proposing to discharge into the POTW, must first obtain a wastewater discharge permit from the control authority. Any user who violates the following conditions of this chapter or a wastewater discharge permit or order, or any applicable or state and federal law, is subject to permit termination:

- (a) Violation of 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 constituents and characteristics;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under § 18-219(3) why the proposed action should not be taken. (1995 Code, § 18-219)

18-220. Judicial and supplemental enforcement remedies. If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, the superintendent, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the Circuit Court for Carroll County.

(1) Injunctive relief. Whenever an industrial user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the superintendent, through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user. The superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges.

(2) Civil penalties. (a) Any industrial user who has violated or continues to violate this chapter or any order or permit issued hereunder, shall be liable to the superintendent for a civil penalty of not more than one thousand dollars (\$1,000.00) plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the superintendent may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

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

(3) Criminal prosecution. (a) Violations - generally. (i) Any industrial user who willfully or negligently violates any provision of this chapter or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed ten thousand dollars (\$10,000.00) per violation per day or imprisonment for not more than one (1) year or both.

(ii) In the event of a second conviction, the user shall be punishable by a fine not to exceed ten thousand dollars (\$10,000.00) per violation per day or imprisonment for not more than three (3) years or both.

(b) Falsifying information. (i) Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000.00) per violation per day or imprisonment for not more than one (1) year or both.

(ii) In the event of a second conviction, the user shall be punishable by a fine not to exceed ten thousand dollars (\$10,000.00) per violation per day or imprisonment for not more than three (3) years or both.

(4) Annual publication of significant violations. The superintendent shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in significant non-compliance as defined in § 18-202 with any provisions of this chapter or any permit or order issued hereunder during the period since the previous publication.

(5) Performance bonds. The superintendent may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder unless such user first files with a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the superintendent to be necessary to achieve consistent compliance.

(6) Liability insurance. The superintendent may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder, unless the industrial user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

(7) Water supply severance. Whenever any user has violated or continues to violate the provisions of this chapter or an order or permit issued hereunder, water service to the user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(8) Public nuisances. Any violation of the prohibitions or effluent limitations of this chapter or permit or order issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent or his designee. Any person(s) creating a public nuisance shall be subject to the provisions of the city code governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating, or remedying said nuisance.

(9) Informant rewards. The superintendent is authorized to pay up to five hundred dollars (\$500.00) for information leading to the discovery of noncompliance by an industrial user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the superintendent is authorized to disperse up to ten percent (10%) of the collected fine or penalty to the informant. However, a single reward payment may not exceed ten thousand dollars (\$10,000.00). (1995 Code, § 18-220)

ATTACHMENT A

Local Effluent Limits for Industrial Users

<u>Pollutant</u>	<u>Allowable Concentration (/l)</u>
Amonia	58.92
Arsenic	0.1230
Benzene	0.2460
Borate	0.1845
Cadmium	0.0369
Carbon Tetrachloride	0.1230
Chromium Hexavalent	0.8303
Chromium Trivalent	1.8450
Copper	0.0361
Cyanide	0.1476
Ethyl Benzene	1.1993
Iron	0.3690
Lead	0.0646
Mercury	0.0184
Methyl Chloride	0.8856
Napthalene	0.0923
Nickel	1.1993
Silver	0.0431
Sulfide	3.9360
Tetrachlotoethylene	0.2306
Tolulene	3.0750
1,1,1, Trichloroethane	27.6753
1,2, Transdichloroethylene	0.0693
Total Phenols	2.7675
Zinc	0.7380

CHAPTER 3

REGULATIONS GOVERNING PUBLIC AND PRIVATE SEWAGE DISPOSAL¹

SECTION

- 18-301. Definitions.
- 18-302. Use of public sewers required.
- 18-303. Private sewage disposal.
- 18-304. Building sewers and connections.
- 18-305. Use of the public sewers.
- 18-306. Protection from damage.

18-301. Definitions. Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

(1) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) expressed in milligrams per liter.

(2) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') (one and one-half (1 1/2) meters) outside the inner face of the building wall.

(3) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(4) "City" shall mean the City of McKenzie, Tennessee, duly operating under a legal charter for said city.

(5) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(6) "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(7) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

(8) "Person" shall mean any individual, firm, company, association, society, corporation, or group.

(9) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

¹Municipal code reference

Cross connections: title 18.

(10) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1/2") in any dimension.

(11) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(12) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

(13) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground waters as may be permitted from normal infiltration.

(14) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(15) "Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(16) "Sewer" shall mean a pipe or conduit for carrying sewage.

(17) "Shall" is mandatory; "may" is permissive.

(18) "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

(19) "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(20) "Superintendent" shall mean the superintendent of the sewage works and/or of water pollution control of the city, or his authorized deputy, agent, or representative.

(21) "Suspended solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(22) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently. (1995 Code, § 18-301)

18-302. Use of public sewers required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, septic tank, or other facility intended or used for the disposal of sewage.

(4) The owner of property when new construction is in progress is hereby required to connect to the City of McKenzie Sanitary Sewer System immediately, provided sewer is available to the property. The owner of existing property shall connect to the City Sanitary Sewer System, if available to the property, when the Carroll County Health Officer properly declares the existing septic system of such property to be a health hazard. (1995 Code, § 18-302)

18-303. Private sewage disposal. (1) Where a public sanitary sewer is not available under the provisions of § 18-302(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent. The owner shall cooperate with the superintendent by furnishing him a construction schedule and any plans and specifications which are deemed necessary.

(3) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered.

(4) The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environment and Conservation of the State of Tennessee. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than that required as determined by the standard percolation tests. No septic tank shall be permitted to discharge to any natural outlet.

(5) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 18-302(4), a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(6) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(7) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the health officer.

(8) When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage

disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt. (1995 Code, § 18-303, modified)

18-304. Building sewers and connections. (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 permit from the superintendent.

(2) There shall be two (2) classes of building sewer permits:

(a) For residential and commercial service; and

(b) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make written application to the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent.

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

The property owner shall be responsible for the maintenance of the sewer line from the main line of the sewer to the structure.

(4) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

(6) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

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

(8) No person shall make connections of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(10) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(11) All excavations for building sewer installations 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. (1995 Code, § 18-304)

18-305. Use of the public sewers. (1) No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the superintendent, to a storm sewer or natural outlet.

(3) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

(c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers,

tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(4) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, or public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F (sixty-five degrees (65°)) C.

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred fifty degrees (150°) F (zero degrees (0°) and sixty-five degrees (65° C)).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the superintendent.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.

(f) Any waters or wastes containing phenols or other taste-or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharges to the receiving waters.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(h) Any waters or wastes having a pH in excess of 9.5.

(i) Materials which exert or cause:

(i) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(iii) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(iv) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (4) of this section and which in the judgment of the superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 18-215.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and subject to the and review of all applicable reviewing authorities.

(6) Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such 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.

(7) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(8) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(9) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the downstream manhole in the public sewer nearest to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pHs are determined from periodic grab samples.)

(10) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by the industrial concern. (1995 Code, § 18-305)

18-306. Protection from damage. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (1995 Code, § 18-306)

CHAPTER 4

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Correction of existing violations.
- 18-408. Use of protective devices.
- 18-409. Unpotable water to be labeled.
- 18-410. Violations.

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(5) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(6) "Public water supply." The waterworks system furnishing water to the municipality for general use and which supply is recognized as the public water supply by the Tennessee Department of Health. (1995 Code, § 18-401)

¹Municipal code references

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

18-402. Standards. The municipal public water supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the rules and regulations for public water supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1995 Code, § 18-402)

18-403. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the waterworks of the McKenzie Water Department. (1995 Code, § 18-403, modified)

18-404. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the McKenzie Water Department a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1995 Code, § 18-404)

18-405. Inspections required. It shall be the duty of the McKenzie Water Department of the waterworks to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the superintendent of the waterworks and as approved by the Tennessee Department of Environment and Conservation. (1995 Code, § 18-405, modified)

18-406. Right of entry for inspections. The superintendent of waterworks or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access,

when requested, shall be deemed evidence of the presence of cross connections. (1995 Code, § 18-406)

18-407. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the superintendent of the waterworks.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the superintendent of the waterworks shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1995 Code, § 18-407)

18-408. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation.
(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water supply, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply.

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the superintendent of the McKenzie Water Department or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health as to manufacture, model, and

size. The method of installation of backflow protective devices shall be approved by the superintendent of the waterworks prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent of the waterworks or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one (1) unit has been installed and the continuance of service is critical, the water department shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The superintendent shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the superintendent of the McKenzie Water Department.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the superintendent of the water department. (1995 Code, § 18-408)

18-409. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE
FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. (1995 Code, § 18-409)

18-410. Violations. The requirements contained herein shall apply to all premises served by the municipal water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the municipality to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined under the general penalty clause for this municipal code of ordinances. (1995 Code, § 18-410)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

CHAPTER

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

CHAPTER 1

SMOKING REGULATIONS

SECTION

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

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

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

CHAPTER 2

FAIR HOUSING

SECTION

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

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

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

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

(3) "Family" includes a single individual.

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

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

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

- (1) All dwellings except as exempted by subsection (2).
- (2) Nothing in § 20-204 shall apply to:
 - (a) Any single-family house sold or rented by an owner:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 3

PARKS AND RECREATION CODE OF CONDUCT

SECTION

20-301. Code of conduct.

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

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

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

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

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

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

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

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

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

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

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ORDINANCE 456

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF MCKENZIE, TENNESSEE

WHEREAS some of the ordinances of the City of McKenzie are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Councilmen of the City of McKenzie, 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 "McKenzie Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND COUNCILMEN OF THE CITY OF MCKENZIE, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "McKenzie 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

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ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than 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."¹

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

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, ' 40-24-101, et seq.

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adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and councilmen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.


Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

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1st Reading: May 10, 2012

2nd Reading: June 14, 2012

Public Hearing: June 14, 2012



JILL HOLLAND, MAYOR

Attest:



Charlie Beal, CMC
City Clerk/Recorder