

**THE
McMINNVILLE
MUNICIPAL
CODE**

Prepared by the
**MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE**
in cooperation with the
TENNESSEE MUNICIPAL LEAGUE

June 1994

Change 5, February 16, 2011

CITY OF McMINNVILLE, TENNESSEE

MAYOR

Norman Rone

VICE MAYOR

Everett Brock

ALDERMEN

Rick Barnes
Clair Cochran
Jimmy Haley
Jr. Medley
Billy Wood

RECORDER

Shirley Durham

PREFACE

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

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

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

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

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

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

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

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

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

Steve Lobertini
Codification Specialist

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

1. **Ordinance procedure.**--An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted on one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)

2. **Publication of ordinances--Codification.**--Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. DEPARTMENT OF PLANNING AND ZONING.
5. SUPERINTENDENT OF PARKS, RECREATION, AND CEMETERIES.
6. SUPERINTENDENT OF STREETS AND SANITATION.
7. CITY ADMINISTRATOR.
8. URBAN FORESTRY AND LANDSCAPE MANAGEMENT.
9. CODE OF ETHICS.

¹Charter references

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

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

Emergency operations plan: title 20, chapter 5.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN¹

SECTION

- 1-101. Composition; election and terms of mayor and aldermen; filling of vacancies.
- 1-102. Vice mayor.
- 1-103. Election, term, and general duties of vice mayor.
- 1-104. Time for regular meetings.
- 1-105. Special meetings.
- 1-106. Quorum; adjournment of meetings.
- 1-107. Appointment and composition of standing committees.
- 1-108. Appointment of special committees.
- 1-109. Removal of members of standing committees.
- 1-110. Duties of finance committee.
- 1-111. Powers and duties of water and sewer committee.
- 1-112. Powers and duties of safety committee.
- 1-113. Powers and duties of street and sanitation committee.
- 1-114. Powers and duties of building committee.
- 1-115. Powers and duties of parks, recreation, and cemeteries committee generally.
- 1-116. Duties of parks, recreation, and cemeteries committee with respect to recreational facilities.

¹Charter references

For charter provisions related to the board of mayor and aldermen, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the board of mayor and aldermen, see the following sections:

City Administrator: § 6-4-101.

Compensation: § 6-3-109.

Duties of Mayor: § 6-3-106.

Election of the board: § 6-3-101.

Oath: § 6-3-105.

Ordinance procedure

Publication: § 6-2-101.

Readings: § 6-2-102.

Residence requirements: § 6-3-103.

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

See also the related private acts in the charter.

1-101. Composition; election and terms of mayor and aldermen; filling of vacancies.¹ The board of mayor and aldermen shall consist of the mayor and six (6) aldermen. In accordance with the provisions of Tennessee Code Annotated, § 6-1-403(b)(1), the terms of office of the board of mayor and aldermen of the City of McMinnville, Tennessee, are hereby changed from staggered two (2) year terms to staggered four (4) year terms. As required by the statute, the transition to staggered four (4) year terms shall be accomplished as follows:

(1) In the election held in December, 1990, the successors to the offices of the three (3) aldermen whose terms expire at that time shall be elected for a three (3) year transitional term of office, ending on the date of December election in 1993. In the election held in December, 1993, and each and every four (4) years thereafter, the successors to the office of the three (3) aldermen whose terms expires at those times shall be elected for a term of four (4) years.

(2) In the election held in December, 1991, and each and every four (4) years thereafter, the successors to the offices of the mayor and three (3) aldermen whose terms expire at those times shall be elected for a term of four (4) years. (1982 Code, § 1-101)

1-102. Vice mayor. In case the mayor becomes incapacitated and unable to perform the duties of such office, either temporarily or permanently, the vice mayor shall become the mayor, as provided in Tennessee Code Annotated, § 6-1-405. In case both the mayor and the vice mayor become incapacitated, the line of succession to the office of vice mayor shall be in the following order:

- (1) Chairman of the finance committee.
 - (2) Chairman of the water and sewer committee.
 - (3) Chairman of the safety committee.
 - (4) Chairman of the street and sanitation committee.
 - (5) Chairman of the building committee.
 - (6) Chairman of the parks, recreation, and cemeteries committee.
- (1982 Code, § 1-102)

1-103. Election, term, and general duties of vice mayor. The board of mayor and aldermen, upon its first regular meeting after each annual election, shall elect one of its members as vice mayor, who shall hold such office

¹See Ord. No. 1239 (May 1997) of record in the office of the recorder for an ordinance to change the date of municipal elections of the City of McMinnville, Tennessee, of the Mayor and Aldermen, and to provide for transitional terms of office to correspond to the new date of the municipal election.

for a period of one (1) year. The vice mayor shall preside over deliberations and meetings of the board. (1982 Code, § 1-103)

1-104. Time for regular meetings. The time for holding the regular meetings of the board of mayor and aldermen shall be at 7:00 p.m. on the first and fourth Tuesdays of each month, for the transaction of such business as may arise. (1982 Code, § 1-104, as amended by Ord. #1474, March 2004)

1-105. Special meetings. The mayor shall have power to convene the board of mayor and aldermen whenever, in his judgment, such special meeting shall be for the welfare of the city, but the board, when so convened, shall not consider any matters except such as shall be brought to the attention of the members of the board in the mayor's call for such special meeting. Notice of the special meeting shall be in writing, signed by the mayor, and shall state the purpose of the meeting being called, which notice or call shall be served upon each member by the chief of police. (1982 Code, § 1-105)

1-106. Quorum; adjournment of meetings. Four (4) members of the board of mayor and aldermen shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day and shall have power to compel the attendance of absent members. The regular meetings may adjourn from day to day as occasion therefor may arise, provided that no meeting shall be extended beyond the time for the next regular meeting. (1982 Code, § 1-106)

1-107. Appointment and composition of standing committees. The mayor shall appoint the following standing committees of the board of mayor and aldermen, each committee to consist of three (3) aldermen:

- (1) Finance committee.
- (2) Water and sewer committee.
- (3) Safety committee.
- (4) Street and sanitation committee.
- (5) Building committee.
- (6) Parks, recreation, and cemeteries committee. (1982 Code, § 1-107)

1-108. Appointment of special committees. The mayor shall, from time to time, appoint such special committees of the board of mayor and aldermen as may be authorized and directed by the board, or as he deems necessary and proper. (1982 Code, § 1-108)

1-109. Removal of members of standing committees. The mayor shall have power, in his discretion, to remove at any time any member of the standing committees of the board of mayor and aldermen or to make any change in the membership of same as he may deem necessary and proper; provided,

however, in the event of the removal of any member of any standing committee, the mayor shall immediately appoint a successor to the member so removed; and provided, further that the membership of each standing committee shall always consist of three (3) aldermen. (1982 Code, § 1-109)

1-110. Duties of finance committee. It shall be the duty of the finance committee of the board of mayor and aldermen to protect the financial interests of the city, to see that no money is paid out of the municipal treasury except in accordance with the ordinances, resolutions, and other legal methods of paying the same. Such committee shall make, at least as often as once each three (3) months, a settlement with the recorder and treasurer and other collecting and disbursing officers or employees of the city and report to the mayor and aldermen the condition of the finances of the city and its assets and liabilities, and examine and report upon any account or financial matters submitted to it by the mayor and aldermen. (1982 Code, § 1-110)

1-111. Powers and duties of water and sewer committee.¹ The water and sewer committee of the board of mayor and aldermen shall have the general care and supervision of the administration of the water and sewer system, and it shall contract for and purchase all machinery, material, and supplies of every kind necessary for the repair and operation of such system, and also provide for labor necessary in running such system, but shall make no contract for expenditures in excess of the current revenue appropriated without the consent and approval of the board. It shall make no material extensions or radical changes in such system without approval of the board. It shall perform such other duties as are imposed upon it from time to time by the ordinances of the city. Such committee shall report the condition of the system in writing to the board at least every three (3) months.

The water and sewer committee shall have charge and control of the maintenance and repair of the city's swimming pools, and shall administer and supervise the enforcement of the plumbing code. (1982 Code, § 1-111)

1-112. Powers and duties of safety committee.² The police department shall be under the direct control and supervision of the safety committee of the board of mayor and aldermen, including all appropriations for such department, and no expenditures involving the police department shall be made without approval of the safety committee. All bills pertaining to the police

¹Municipal code reference
Sewers and sewage disposal: title 18.

²Municipal code reference
Fire department: title 7.
Police department: title 6.

department and presented to the board for payment shall be approved and signed by the chairman of the safety committee before being allowed by the board.

The fire department shall be under the direct control and supervision of the safety committee of the board of mayor and aldermen, which committee shall administer and supervise all finances, appropriations, appointments, and all other features pertinent to the operation of said fire department. (1982 Code, § 1-112)

1-113. Powers and duties of street and sanitation committee.¹

(1) Street department. It shall be the duty of the aldermen to have and take general supervision of all streets, alleys, lawns and sidewalks and all other property of the city, except such as is under the charge of other committees or officers, and see that such is kept in proper repair and condition, and to direct when, where, and how the work thereon shall be done and the manner in which the money for such purpose is expended. Such committee is further empowered to purchase all necessary tools and materials and employ all necessary hired labor and equipment for the purpose of keeping the streets in repair, which shall be paid for out of the funds set apart for that purpose, and to take such steps as it deems proper to preserve the tools and materials belonging to the city, and to keep a record of all expenditures made and authorized by it for repairing the streets.

(2) Sanitation division. It shall be the duty of the street and sanitation committee of the board of mayor and aldermen to have and take general supervision of all sanitary functions and facilities available to the municipality, including, but not limited to, solid waste disposal, refuse, and garbage pick-up; sanitary landfill facilities; "dumpster" operations and all related undertakings; to preserve and maintain proper and safe sanitary conditions for citizens of the municipality; to see that all equipment used for these purposes is kept in proper repair; to direct when, where, and how work on sanitary and sanitation activities is carried forth; and to direct the manner in which the money for such purposes is expended. Such committee is further empowered to purchase all necessary tools and materials and employ all necessary hired labor and equipment for the purposes of keeping sanitation facilities in proper repair, which shall be paid for out of funds set apart for that purpose, and to take steps to preserve the equipment, tools, and materials belonging to the city, and to keep a record of all expenditures made and authorized by it for carrying forth the maintenance of all such sanitation facilities and functions.

¹Municipal code reference

Refuse and trash disposal: title 17.

Streets and sidewalks, etc.: title 16.

The division of sanitation shall be separate and apart entirely from the sewer system facilities and functions.

(3) Superintendent. The street and sanitation department shall have as its head a superintendent of streets and sanitation with such powers, duties and responsibilities as necessary to effectively manage the two (2) departmental divisions in accordance with the applicable policies and procedures contained in title 17, chapter 1 and title 16, chapters 1 and 2 of this code and any other as may be directed from time to time by the street and sanitation committee. (1982 Code, § 1-113)

1-114. Powers and duties of building committee.¹ The building committee of the board of mayor and aldermen shall supervise and control the maintenance and repair of all buildings owned by the city. Such committee shall also administer and supervise the enforcement of the building, gas, and housing codes and make recommendations to the board as to changes in amendments to such codes. (1982 Code, § 1-114)

1-115. Powers and duties of parks, recreation, and cemeteries committee generally.² It shall be the duty of the parks, recreation, and cemeteries committee of the board of mayor and aldermen to have and take general care and supervision of the city parks and cemeteries and see that they are kept in proper condition and repair, and to recommend to the board such rules and regulations as it deems necessary for the care, maintenance, and protection of such property. It shall have the power to spend such funds as are set apart by the board for the purpose of maintaining and beautifying the city parks and cemeteries, and to employ all labor and purchase of all supplies for that purpose. It shall be required to keep a record of the expenditures and report same to the board with such other matters as it deems proper and necessary, at least once a month.

No payment shall be made for work, materials for improvement, or maintenance of the parks and cemeteries unless the same is approved by the chairman of the parks, recreation, and cemeteries committee. (1982 Code, § 1-115)

1-116. Duties of parks, recreation, and cemeteries committee with respect to recreational facilities. (1) All recreational facilities of the city are hereby placed under the care and supervision of the parks, recreation, and

¹Municipal code reference

Building, housing, and utility codes: title 12.

²Municipal code reference

Superintendent of parks, recreation, and cemeteries: this title, chapter 5.

cemeteries committee of the board of mayor and aldermen, which shall have complete supervisory control of such facilities; provided that such committee's jurisdiction as to city swimming pools shall be limited to the operation of such pools, the maintenance thereof being the responsibility of the water and sewer committee, as provided in § 1-111.

(2) The chairman of the parks, recreation, and cemeteries committee shall have the authority to appoint such subcommittees to act under him in the operation and management of the city's recreational facilities as he may, in his judgment, desire. The chairman of such committee shall be responsible to the board of mayor and aldermen for the operation and actions of any subcommittees appointed by him. (1982 Code, § 1-116)

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises city's affairs.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1982 Code, § 1-201)

¹Charter references

For charter provisions related to the mayor, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the mayor, see the following sections:

Duties of Mayor: § 6-3-106.

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

CHAPTER 3

RECORDER¹

SECTION

- 1-301. Election; term; removal.
- 1-302. Oath.
- 1-303. Bond.
- 1-304. Under supervision of finance committee.
- 1-305. General duties as city accountant.
- 1-306. Financial reports.
- 1-307. Duties with respect to board meetings, ordinances, resolutions, etc.
- 1-308. Custodian of city seal and records.
- 1-309. To serve as treasurer.
- 1-310. Duty to receive, receipt for, and preserve funds.
- 1-311. Accounts to be kept.
- 1-312. Prerequisites to resignation.

1-301. Election; term; removal. The recorder shall be elected, beginning in 1970, by the board of mayor and aldermen at the first regular meeting in June, to serve thenceforth at the will of the board. The recorder, in addition to serving at the will of the board, shall be subject to dismissal at any time for dereliction of duty, conflicts of interest, malfeasance, or any other actions giving rise to dismissal for cause. (1982 Code, § 1-301)

1-302. Oath. Before entering upon his duties, the recorder shall take and subscribe to an oath to well and truly execute the duties of his office. (1982 Code, § 1-302)

1-303. Bond. Before entering upon his duties, the recorder shall execute a bond, in such sum as is prescribed by the board of mayor and aldermen, to be approved by the board, and conditioned upon the faithful and diligent discharge of his duties as such recorder and the proper accounting for and paying out, within the time and manner prescribed by law, all monies which have come into or passed through his office or which should have come into his office or hands. (1982 Code, § 1-303)

¹Charter references

City recorder: § 6-4-201 et seq.

Recorder as treasurer: § 6-4-401(c).

Recorder as judge: § 6-4-301(b)(1)(C).

1-304. Under supervision of finance committee. The office of city recorder is hereby placed under the supervision of the finance committee of the board of mayor and aldermen. The recorder shall be accountable to the finance committee for all matters relating to the operation and maintenance of the office. (1982 Code, § 1-304)

1-305. General duties as city accountant. The recorder shall be the general accountant for the city, and, as such, it shall be his duty to receive and preserve all accounts, books, vouchers, papers, etc., relating to the accounts, contracts, debts, revenues, and fiscal affairs of the city. It shall also be his duty to draw and register all warrants on the treasury for all appropriations and monies ordered paid by the board of mayor and aldermen. He shall keep a true and accurate account of all the revenues, receipts, and expenditures, and the several funds of the city. (1982 Code, § 1-305)

1-306. Financial reports. The recorder shall, quarterly or more often if required by the board of mayor and aldermen, make a full report of the financial affairs or condition of the city, showing in detail the receipts and revenues raised or received, and from what source same were derived, and showing in detail the disbursements, and for what purpose and on what account the same were made, and showing the condition of the treasury and each city fund at the time of the statement. (1982 Code, § 1-306)

1-307. Duties with respect to board meetings, ordinances, resolutions, etc. The recorder shall attend all meetings of the board of mayor and aldermen, keep a true and correct journal of the proceedings of the board, which shall be recorded in the minute books of the city, shall record the aye and no vote whenever same is taken or called upon the passage of any ordinance, resolution, or other matter before the board. He shall note upon the journal of the board the passage, upon the reading(s) prior to their final passage of all ordinances and resolutions by their titles, and upon the passage on final reading of any ordinance or resolution, he shall enter the same upon the journal or minutes of the board and shall, after the same shall have been signed by him, immediately transmit the original to the mayor for his approval, and upon the return of the same by the mayor with his action thereon, the recorder shall note such fact upon the journal of the board's proceedings and shall enter upon the journal all subsequent actions on the ordinances or resolutions. He shall preserve on file, as part of his records of office, such original ordinances and resolutions.

The recorder shall sign the minutes of each meeting of the board of mayor and aldermen. (1982 Code, § 1-307)

1-308. Custodian of city seal and records. The recorder shall have custody of the seal, books, papers, and records of the city. (1982 Code, § 1-308)

1-309. To serve as treasurer. The recorder shall also serve as treasurer for the city. (1982 Code, § 1-309)

1-310. Duty to receive, receipt for, and preserve funds. The recorder shall receive and receipt for all funds or monies due the city and safely keep and preserve the same until such funds or monies are duly drawn out upon warrants issued by him in conformity with law, or for monies duly appropriated by the board of mayor and aldermen. (1982 Code, § 1-310)

1-311. Accounts to be kept. The recorder shall keep a true and correct account of all monies received on account of each separate fund of the city and shall also keep a true and correct account of each such fund, and an account of each and every appropriation made by the board of mayor and aldermen. (1982 Code, § 1-311)

1-312. Prerequisites to resignation. Should the recorder wish to resign, he must first make out a list, in alphabetical order, of all unpaid taxes or other funds due to the city in his hands for collection and turn the same over to the mayor with his resignation, together with all books, papers, monies, or other things of value in his hands belonging to the city, taking the mayor's receipt therefor. (1982 Code, § 1-312)

CHAPTER 4

DEPARTMENT OF PLANNING AND ZONING

SECTION

1-401. Created.

1-402. Appointment and title.

1-403. Duties.

1-404. Salary.

1-401. Created. There is hereby created the department of planning and zoning. (1982 Code, § 1-401, as replaced by Ord. #1506, Sept. 2005)

1-402. Appointment and title. The person in charge of the department of planning and zoning shall be known as the "directors" of planning and zoning; and shall be appointed by the board of mayor and aldermen. (1982 Code, § 1-402, as replaced by Ord. #1506, Sept. 2005)

1-403. Duties. The director of planning and zoning shall serve under the direction and policies of the building committee and shall be responsible to enforce such codes as may be adopted from time to time by the board of mayor and aldermen as it pertains to, but not necessarily limited to, zoning, subdivision, planning, annexation, historical overlay zoning, future land use, building, gas, housing, mechanical, swimming pool, unsafe building abatement, signs, geographic information system, telecommunications, and FEMA flood elevation requirements. (1982 Code, § 1-403, as replaced by Ord. #1506, Sept. 2005)

1-404. Salary. The board of mayor and aldermen shall fix and determine the salary of the director, as provided for in the Classification-Compensation Study adopted by the Mayor and Board of Aldermen of the City of McMinnville, Tennessee, by Ord. #1110 and subsequently amended by Ord. #1291, and shall remain in full force and effect, unless subsequently amended further by the board, and shall not be reduced during his tenure as director. (1982 Code, § 1-404, as replaced by Ord. #1506, Sept. 2005)

CHAPTER 5

SUPERINTENDENT OF PARKS, RECREATION, AND CEMETERIES¹

SECTION

1-501. Office created; election.

1-502. To perform duties; bond.

1-503. Duties specified.

1-501. Office created; election. The office of superintendent of parks, recreation, and cemeteries is hereby created for the City of McMinnville, Tennessee. The superintendent of parks, recreation, and cemeteries shall be elected to his or her office by a majority vote of the board of mayor and aldermen upon the recommendation of the parks, recreation, and cemeteries committee, and he or she shall hold said position at the pleasure of the board of mayor and aldermen. (1982 Code, § 1-501)

1-502. To perform duties; bond. The superintendent of parks, recreation, and cemeteries upon taking the oath of office shall faithfully perform all the duties and requirements of said office as specified in this chapter and as specified by the board of mayor and aldermen and shall execute a proper performance bond. (1982 Code, 1-502)

1-503. Duties specified.² The superintendent of parks, recreation, and cemeteries shall have the following duties:

(1) To take general charge and control of the physical facilities of all parks, recreation, and other such facilities that come under the department of parks, recreation, and cemeteries and be in charge of the general operation thereof, including but not limited to, the hiring and firing of personnel to operate said facilities, the scheduling of events of any form or nature, subject, however, to any contracts and agreements which the City of McMinnville, Tennessee, may now have outstanding relative to its parks, recreation, and cemetery facilities and subject further to the oversight and direction of the parks, recreation, and cemeteries committee of the board of mayor and aldermen.

¹Municipal code reference

Duties, etc., of the parks, recreation, and cemeteries committee: §§ 1-115 and 1-116.

²Municipal code reference

Authority to designate smoking and non-smoking areas within the Civic Center Building: title 11, chapter 6.

(2) To maintain a bookkeeping system showing the income and expenditures of the office.

(3) To file requisitions with the purchasing agent of the City of McMinnville for such purchases as he or she may deem necessary for the operation, maintenance, and general conduct of the affairs of the civic center.

(4) Make such purchases as may be authorized by any other department head as contained in title 5, chapter 5 of this code.

(5) To designate the flow of vehicular traffic in any of the parks and recreational areas of the city, to limit the use of certain areas by vehicles, motorcycles, motor scooters, and the like, and to post signs therein defining or designating these areas.¹ (1982 Code, § 1-503)

¹Municipal code reference

Operation of vehicles and speed limits: §§ 15-132 and 15-205.

CHAPTER 6

SUPERINTENDENT OF STREETS AND SANITATION

SECTION

1-601. Office created; election, term.

1-602. Oath.

1-603. Duties.

1-601. Office created; election, term. There is hereby created the office of the superintendent of streets and sanitation for the City of McMinnville to be elected by the board of mayor and aldermen to serve at the will of the board. Said superintendent of streets and sanitation, in addition to serving at the will of the board, shall also be subject to dismissal at any time for dereliction of duty, conflicts of interests, malfeasance, or any other action giving rise to dismissal for cause. (1982 Code, § 1-1201)

1-602. Oath. Before entering upon his duties, the superintendent shall take and subscribe to an oath to well and truly execute the duties of his office. (1982 Code, § 1-1202)

1-603. Duties. To take general charge and control of the physical facilities of the street and sanitation department, supervising and managing personnel, materials and equipment for the effective collection and disposal of refuse in accordance with the applicable provisions of title 17 and the maintenance of streets and other public ways of the city in accordance with the applicable provisions of title 16 of the municipal code. The superintendent shall be vested with powers to purchase supplies, materials and equipment, subject to procedures and limitations prescribed in title 5, chapter 5 of this code. (1982 Code, § 1-1203)

CHAPTER 7

CITY ADMINISTRATOR

SECTION

- 1-701. Office of administrator created.
- 1-702. Residency.
- 1-703. Vacancy in office.
- 1-704. Bond.
- 1-705. Duties of city administrator.
- 1-706. Board-city administrator relations.
- 1-707. Departmental cooperation.
- 1-708. Attendance at board and committee meetings.
- 1-709. Removal.

1-701. Office of administrator created. There is hereby created the office of city administrator for the City of McMinnville. The board of mayor and aldermen shall appoint and fix the salary of the city administrator, who shall serve at the pleasure of the board of mayor and aldermen. The city administrator shall be selected solely on the basis of his training, experience, and other administration qualifications. Minimum qualifications shall include a college degree, and training or experience in municipal management or business administration. The city administrator shall give full time to the duties of his office. No member of the board shall be eligible for appointment as city administrator until one year has elapsed after such board member shall have ceased to be a member of the board of mayor and aldermen. (1982 Code, § 1-1301, as amended by Ord. #1518, March 2006)

1-702. Residency. As a condition of his appointment, the city administrator need not live in the city, but must become a resident of the City of McMinnville within ninety (90) days of his first day of employment as city administrator. (1982 Code, § 1-1302, as amended by Ord. #1518, March 2006)

1-703. Vacancy in office. During periods of vacancy in the office, temporary absences or disability of the city administrator, the board of mayor and aldermen may appoint an acting city administrator, or may designate a qualified administrative officer of the city to assume the duties and authority of the city administrator. (1982 Code, § 1-1303, as amended by Ord. #1518, March 2006)

1-704. Bond. The city administrator and acting city administrator shall furnish a corporate surety bond to be approved by the board of mayor and aldermen in such sum as may be determined by said board, and shall be conditioned upon the faithful performance of the duties imposed upon the city

administrator and acting city administrator as herein prescribed. Any premium for such bond shall be a proper charge against the City of McMinnville. (1982 Code, § 1-1304)

1-705. Duties of administrator. The city administrator is to directly supervise all department heads and coordinate all activities of each department of the city according to the policies and directives of the board of mayor and aldermen, including the following specific duties:

(1) To make recommendations to the board for improving the quality and quantity of public services to be rendered by the employees to the inhabitants of the city.

(2) To keep the board fully advised as to the conditions and needs of the city.

(3) To report to the board the condition of property and equipment of the city, and to recommend repairs and replacements as needed.

(4) To recommend to the board necessary programs and projects involving public works and public improvements, and to recommend priorities for their accomplishment.

(5) In conjunction with the finance committee, to administer the purchasing activities of the city.

(6) To recommend an annual budget for each department of the city that is under the control of the board of mayor and aldermen.

(7) To direct the enforcement of all personnel rules, regulations, and policies that are adopted by the board of mayor and aldermen, and to approve any dismissal, promotion, or demotion of any employee.

(8) To initiate disciplinary action for department heads when appropriate.

(9) To review all applications for employment filed for department head positions, to interview applicants, and hire the best/most qualified applicant. The city administrator also has commensurate authority to fire department heads.

(10) To act as liaison officer for the board in coordinating the activities of the city under separate boards and commissions.

(11) To serve as coordinator for all federal and state programs which may be available to the city.

(12) To perform such other duties as may be required of him by official action of the board of mayor and aldermen. (1982 Code, § 1-1305, as replaced by Ord. #1309, Nov. 1998, and amended by Ord. #1518, March 2006)

1-706. Board-city administrator relations. The board of mayor and aldermen and its members shall deal with the administrative services of the city only through the city administrator, except for the purposes of inquiry, and neither the board nor any member thereof shall give orders and instructions to any subordinate of the city administrator. The city administrator shall take

executive direction from the mayor as representative of the board and shall receive a written performance evaluation from the mayor no later than the end of each calendar year. (1982 Code, § 1-1306, as replaced by Ord. #1309, Nov. 1998)

1-707. Departmental cooperation. In the interest of efficient, economic, and harmonious administration of the affairs of the city, it is essential that all employees, subordinate officers, appointed members, and elected members of the city board strictly adhere to the chain of command and the chain of coordination established to administer the affairs of the city. (1982 Code, § 1-1307, as replaced by Ord. #1309, Nov. 1998, and amended by Ord. #1518, March 2006)

1-708. Attendance at board and committee meetings. The city administrator shall attend all meetings of the board of mayor and aldermen, and may attend meetings of any other commissions, boards, and committees created by the board upon his own volition or upon direction of the board. In attending meetings of commissions, boards and committees, the city administrator may be heard as to all matters upon which he wishes to speak, and he shall cooperate to the fullest extent with all commissions, boards, and committees appointed by the board. (1982 Code, § 1-1308, as replaced by Ord. #1309, Nov. 1998, and amended by Ord. #1518, March 2006)

1-709. Removal. The city administrator shall serve at the will and pleasure of the board of mayor and aldermen, and may be removed from office by a vote of no less than four (4) members of the board of mayor and aldermen. Unless the city administrator is removed for willful misconduct in the performance of his duties, the board may consider and approve granting severance pay to the city administrator. (1982 Code, § 1-1309, as replaced by Ord. #1309, Nov. 1998, and amended by Ord. #1518, March 2006)

CHAPTER 8

URBAN FORESTRY AND LANDSCAPE MANAGEMENT

SECTION

1-801. Office of urban forestry and landscape management created.

1-802. Duties of urban forester and landscape management.

1-803. Oath.

1-801. Office of urban forestry and landscape management created. There is hereby created for the City of McMinnville, Tennessee, the office of Urban Forestry and Landscape Management. The board of mayor and alderman shall appoint and fix the salary of the urban forester, who shall serve at the pleasure of the board of mayor and aldermen. He shall be subject to dismissal at any time for dereliction of duty, conflicts of interest, malfeasance, or any other action giving rise to dismissal for cause. The urban forester shall be selected based on his training, experience and other administrative qualifications. The urban forester shall give full time to the duties of his office and shall be subject further to the oversight and direction of the building and grounds committee of the board of mayor and aldermen. (as added by Ord. #1371, Jan. 2001)

1-802. Duties of urban forester and landscape management. The urban forester shall be responsible for the care of management of all city owned trees. He shall establish tree and landscape guidelines for all trees, shrubs and other plantings on city property. He shall cooperate with other departments of the city in the maintenance of right-of-ways and other city owned property. He shall make recommendations on policies and procedures to improve the appearance of the city. He shall have and perform such other duties as the mayor, city administrator or the board of mayor and aldermen shall direct by written memorandum or ordinance. (as added by Ord. #1371, Jan. 2001)

1-803. Oath. Before entering upon his duties, the urban forester shall take and subscribe to an oath to execute the duties of his office. (as added by Ord. #1371, Jan. 2001)

CHAPTER 9

CODE OF ETHICS

SECTION

- 1-901. Applicability.
- 1-902. Definition of "personal interest."
- 1-903. Disclosure of personal interest by official with vote.
- 1-904. Disclosure of personal interest in nonvoting matters.
- 1-905. Acceptance of gratuities, etc.
- 1-906. Use of information.
- 1-907. Use of municipal time, facilities, etc.
- 1-908. Use of position or authority.
- 1-909. Outside employment.
- 1-910. Ethics complaints.
- 1-911. Violations.
- 1-912. Penalty.

1-901. Applicability. This chapter constitutes the code of ethics for officials and employees of the City of McMinnville. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #1386, June 2001, deleted by Ord. #1512, Feb. 2006, and replaced by Ord. #1539, June 2007)

1-902. Definition of "personal interest." (1) For purposes of §§ 1-903 and 1-904, "personal interest" means:

- (a) Any financial, ownership, or employment interest in the subject of a vote by a city board not otherwise regulated by state statutes on conflicts of interest; or
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), sibling(s), child(ren), or stepchild(ren).

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of state law take precedence over the

provisions of this chapter. (as added by Ord. #1386, June 2001, deleted by Ord. #1512, Feb. 2006, and replaced by Ord. #1539, June 2007)

1-903. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #1386, June 2001, deleted by Ord. #1512, Feb. 2006, and replaced by Ord. #1539, June 2007)

1-904. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #1539, June 2007)

1-905. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money gift, gratuity, or other consideration or favor of any kind from anyone other than the city:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing city business. (as added by Ord. #1539, June 2007)

1-906. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the city. (as added by Ord. #1539, June 2007)

1-907. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage of himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the city. (as added by Ord. #1539, June 2007)

1-908. Use of position or authority. (1) An official or employee may not use or attempt to make private purchases, for cash or otherwise, in the name of the city.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city. (as added by Ord. #1539, June 2007)

1-909. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the city position or conflicts with any provision of the city's charter or any ordinance of the city. (as added by Ord. #1539, June 2007)

1-910. Ethics complaints. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than a violation of this code of ethics. (as added by Ord. #1539, June 2007)

1-911. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the city's charter or other applicable law and in addition is subject to censure by the city board. An appointed official or any employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #1539, June 2007)

1-912. Penalty. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who has violated any provision of this chapter is subject to punishment as provided by the city's charter or other applicable law, and may be assessed a penalty of fifty dollars (\$50.00) in addition to being subjected to public censure by the city board. Any employee who violates any provision of this chapter is subject to disciplinary action as found in the city personnel policy. (as added by Ord. #1539, June 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. BOARD OF PUBLIC UTILITIES.
2. McMINNVILLE CULTURAL COMMISSION.

CHAPTER 1

BOARD OF PUBLIC UTILITIES¹

SECTION

- 2-101. Created.
- 2-102. Composition; appointment and terms of members.
- 2-103. Oath of members; members to serve without bond.
- 2-104. Compensation of members; expenses to be considered part of electric system costs.
- 2-105. Removal of members.
- 2-106. Election of chairman
- 2-107. Election of treasurer.
- 2-108. Attorney, general counsel, and secretary.
- 2-109. Meetings.
- 2-110. Rules of procedure.
- 2-111. Control of electric system.
- 2-112. Authority relative to superintendent of electric system.
- 2-113. Board and superintendent of electric system to have powers and duties prescribed by state law.

2-101. Created. There is hereby created a board to be known as the Board of Public Utilities of the City of McMinnville. (1982 Code, § 13-101)

2-102. Composition; appointment and terms of members. The board of public utilities shall consist of four (4) members appointed by the mayor and confirmed by the board of mayor and aldermen. The fifth member shall be a member of the board of mayor and aldermen designated by the mayor and approved by the board.

The original appointees to the board of public utilities shall serve for one (1), two (2), three (3), and four (4) years respectively. The successor to each retiring member shall be appointed at the first regular meeting held by the

¹State law reference

Tennessee Code Annotated, title 7, chapter 52.

board of mayor and aldermen in June of each year preceding the expiration of the term of such member of the board of public utilities and each member so appointed shall serve for a term of four (4) years beginning July 1 or until his successor is appointed and qualified. The member of the board of public utilities who is also a member of the board of mayor and aldermen shall serve for such term as is fixed by the mayor, but in no event shall his term extend beyond his term as a member of the board of mayor and aldermen. Appointments to complete unexpired terms of office on the board of public utilities shall be made in the same manner as are original appointments. (1982 Code, § 13-102)

2-103. Oath of members; members to serve without bond. Each member of the board of public utilities shall qualify by taking the oath of office required to be taken by members of the board of mayor and aldermen and each member shall serve without bond. (1982 Code, § 13-103)

2-104. Compensation of members; expenses to be considered part of electric system costs. The members of the board of public utilities shall receive an allowance not to exceed twenty-five dollars (\$25.00) per month and shall be allowed necessary traveling and other expenses incurred while engaged in the business of the board. All expenses so incurred and the salary of the secretary-treasurer shall be considered to be a part of the cost of operating and maintaining the electric system and such other municipally owned utilities as may be transferred to the supervision of the board of public utilities. (1982 Code, § 13-104)

2-105. Removal of members. Any member of the board of public utilities may be removed from office for cause by vote of three-fourths (3/4) of the members of the board of mayor and aldermen, but may be so removed only after the preferment of formal charges made by resolution adopted by a majority of the members of the board of mayor and aldermen at a public hearing held before the board of mayor and aldermen after the publication of a notice of the intended holding of such hearing, which notice shall be published in a newspaper of general circulation in the city not less than ten (10) days prior to the date fixed for the hearing. (1982 Code, § 13-105)

2-106. Election of chairman. The board of public utilities shall elect a chairman from among its members. (1982 Code, § 13-106)

2-107. Election of treasurer. The board of public utilities shall elect a treasurer. The treasurer need not be a member of the board of public utilities. (1982 Code, § 13-107)

2-108. Attorney, general counsel, and secretary. The attorney and general counsel of the board of public utilities shall be appointed by such board

and his salary or compensation as such shall be fixed by such board and shall be considered as a part of the cost of operating and maintaining the electric system. The attorney and general counsel shall also serve as secretary to the board. (1982 Code, § 13-108)

2-109. Meetings. Public meetings of the board of public utilities shall be held at least once a month in the McMinnville City Electric Building 200 Morford Street McMinnville, TN 37110 on a day and hour to be fixed by the board of public utilities. (1982 Code, § 13-109)

2-110. Rules of procedure. The board of public utilities shall establish its own rules of procedure. (1982 Code, § 13-110)

2-111. Control of electric system. The entire control of the operation and maintenance of the electric system and of improvements and extensions made to such system shall be and is hereby fixed in the board of public utilities and, in operating, maintaining, improving, and extending the electric system, such board shall be entirely independent and free from any supervision or control by the board of mayor and aldermen. (1982 Code, § 13-111)

2-112. Authority relative to superintendent of electric system. The board of public utilities shall appoint a superintendent for the electric system who shall be qualified by training and experience for the general supervision of the system. Such superintendent need not be a resident of the state at the time of his appointment. His salary shall be fixed by the board of public utilities and shall be considered to be a part of the expense of operating and maintaining the system. The superintendent shall serve at the pleasure of such board and may be removed at any time. (1982 Code, § 13-112)

2-113. Board and superintendent of electric system to have powers and duties prescribed by state law. The board of public utilities and the superintendent of the electric system shall have all rights, powers, and duties conferred by Tennessee Code Annotated, title 7, chapter 52. (1982 Code, § 13-113)

CHAPTER 2

McMINNVILLE CULTURAL COMMISSION

SECTION

2-201. McMinnville Cultural Commission.

2-201. McMinnville Cultural Commission. (1) There is created and established a city commission to be known as the McMinnville Cultural Commission, to consist of nine (9) members broadly represented of the cultures of Middle Tennessee and the country of Japan, to be appointed by the mayor from among citizens of Warren County, Tennessee, who have demonstrated a vital interest in the twin cities program for McMinnville and Warren County. The members of the said commission shall be made up as nearly as practicable from the following categories:

- (a) One member from the McMinnville Board of Mayor and Aldermen;
- (b) The Director of McMinnville Parks and Recreation;
- (c) Two members from the Japanese industrial complex;
- (d) Two members from the McMinnville Japanese Ladies Association;
- (e) The McMinnville Sister Cities Committee Chairman;
- (f) Two members to be interested citizens of McMinnville.

The foregoing categories are highly recommended categories, however, the mayor is at liberty, in his discretion, to deviate therefrom.

Of the members appointed by the mayor to the commission, all are appointed for a three-year term, with the exception of the one member from the McMinnville Board of Mayor and Aldermen, the Director of McMinnville Parks and Recreation, and the McMinnville Sister Cities Committee Chairman; and their terms shall expire in three years from appointment or when they do not meet the classification for the category from which they were appointed. All vacancies shall be filled for the balance of the unexpired term in the same manner as original appointments. The members of the commission shall not receive any compensation for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties as members of the commission within the limits of funds available therefor. The commission will annually elect its chairman and other officers.

(2) The duties and objectives of the commission shall be:

- (a) To stimulate and encourage throughout Middle Tennessee and primarily Warren County and the City of McMinnville in the State of Tennessee the various cultures throughout the world, with particular emphasis on those of Japan, Mexico, Central Europe, and the British Isles;

(b) To encourage participation in, appreciation of, and education in the arts and cultures, architectural and landscaping, and ornamental shrubs and trees of the various nations;

(c) To take such steps and actions as may be necessary and appropriate to encourage public interest in the cultural heritage of Middle Tennessee and especially Warren County and McMinnville, and to encourage foreign nations, communities, or cities to educate and enlighten by such means as may be chosen which by Warren County standards would be decent and in order of their customs, architecture, literature, and culture in general. The cultural commission shall, as a part of its duties, carry forth on behalf of the City of McMinnville, Tennessee, working with the City of Mikawa-michi, who has expressed an interest in constructing a traditional Japanese building and landscaped garden, and the commission will be responsible for making decisions about the appropriate use and management of a proposed Japanese cultural center, as well as the physical maintenance of the said building and its grounds;

(d) To encourage excellence and assist freedom of cultural expression of various nations or areas within a nation to better foster international relationship on a local level.

(3) The commission is authorized and empowered to hold public hearings, to enter into contracts, within the limits of funds available therefor, with individuals, organizations, and institutions for services furthering the objectives of the commission and its programs; to enter into contracts, within the limits of funds available therefor, with local and regional associations for cooperative endeavors furthering the objectives of the commission; to accept gifts, contributions, and bequests of unrestricted funds from individuals, foundations, corporations, and other organizations or institutions for the purpose of furthering the objectives of the commission's programs.

(4) The cultural commission shall also concern itself with the City of McMinnville's Japanese sister cities program and any other similar situated relationship with other communities, both foreign and domestic, and should expansion of duties take place in the future, the commission will be expanded appropriately.

(5) The commission is the official agency of the City of McMinnville, Tennessee, to receive and disburse appropriate funds and property made available to it by or through the City of McMinnville, Tennessee. (as added by Ord. #1366, Sept. 2000)

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. (1) There is hereby established and created under the authority of Tennessee Code Annotated § 16-18-101 and § 16-18-102 the office of municipal judge.

(2) The municipal judge shall be vested with the judicial power and judicial functions of the mayor or city recorder of the City of McMinnville, Tennessee, and shall be subject to the provisions of law and the municipality's charter governing the mayor's court or the municipal court presided over by the mayor or the city recorder.

(3) The municipal judge shall be 21 years of age or older; shall have been a citizen and resident of Warren County, Tennessee, for a period of one year prior to assuming office; and a high school graduate.

(4) The municipal judge shall be nominated by the mayor, but shall be appointed by a majority of the members of the board of mayor and aldermen of the City of McMinnville, Tennessee, to serve at the pleasure of the governing body, provided, however, a regular term of service shall be no longer than one (1) year, said term to begin on the first Monday in January of each year at 7:30 p.m. and shall end the first Monday in January one (1) year later at 7:29 p.m. In the event of a failure to appoint a judge when specified, the incumbent judge shall remain in office until his successor is appointed and qualified. The incumbent judge may be removed from office at any time during the term for cause which has been reduced to writing, on the affirmative vote to remove the incumbent judge by five (5) members of the board of mayor and aldermen at a regular or special meeting of the board of mayor and aldermen.

¹Charter references

City Judge--City Court: § 6-4-301.

The incumbent municipal judge may be renominated by the mayor and reappointed by the board of mayor and aldermen and there shall be no limitation as to the number of service terms that any municipal judge may serve.

(5) Any vacancy in the office which occurs by resignation, death, incompetency, or removal for cause by the board of mayor and aldermen shall be filled for the unexpired term by the nomination of the person by the mayor and appointment by the majority of the board of mayor and aldermen.

(6) The person appointed by the board of mayor and aldermen to serve as municipal judge shall, before entering into or upon the duties of this office, take the prescribed oath of office and shall be bonded in the amount of \$5,000.00. The cost of making the bond of the municipal judge shall be paid by the municipality.

(7) The salary of the municipal judge shall be fixed by the board of mayor and aldermen by resolution duly adopted before the judge assumes his duties as judge under this section.

(8) In the event the municipal judge is unable to serve for any reason, sickness, vacation, incompetency, conflict or interest, or recuses himself for any reason, the municipal judge may appoint a special judge, who shall be learned in the law and possesses the same qualifications of the regular municipal judge, said appointment shall be in writing, and the special judge shall take the oath of office prescribed for the regular judge, and the mayor of the City of McMinnville or the recorder of the City of McMinnville may serve as the municipal judge in the absence of the regularly appointed municipal judge.

(9) The recorder is relieved of all duties, powers, and jurisdictions hereby conferred upon the municipal judge in this section and to that extent all ordinances in parts thereof in conflict herewith are repealed, providing, however, the recorder may sit as the municipal judge under this section as special judge. (1982 Code, § 1-701)

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.
- 3-206. Court costs.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1982 Code, § 1-702)

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

In all cases heard or determined by him, the city judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases. (1982 Code, § 1-708)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1982 Code, § 1-711)

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. (1982 Code, § 1-712)

¹State law reference

Tennessee Code Annotated, § 8-21-401.

3-205. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1982 Code, § 1-706)

3-206. Court costs. (1) The following sums are hereby established as the costs for cases brought before the City Court of the City of McMinnville, Tennessee:

Bill of Cost

Special training program	\$ 20.00
Arrest	\$ 17.25
Affidavit and warrant	\$ 10.00
Judgment	\$ 11.00
Docketing	\$ 11.00
Making out bill of cost	\$ 7.00
Subpoena	\$ 7.00
State tax	\$ 13.75
Technology/software/on-line payment cost	\$ 3.00

(2) Upon any case brought before the City Court of the City of McMinnville, Tennessee, where a plea of guilty is entered or a finding of violation of a municipal ordinance is entered by the judge, such portion of the above bill of cost as is applicable to that particular case shall be included in the judgment by the court. (1982 Code, § 1-713, as amended by Ord. #1054, Sept. 1992, Ord. #1374, March 2001, Ord. #1566, June 2008, and Ord. #1621, Aug. 2010)

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 municipal ordinances. (1982 Code, § 1-703)

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. (1982 Code, § 1-704)

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. (1982 Code, § 1-705)

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.¹ 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. (1982 Code, § 1-707)

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, appeal to the next term of the circuit court upon posting a proper appeal bond.² (1982 Code, § 1-709)

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. (1982 Code, § 1-710)

¹Municipal code reference

Deposit of operator's or chauffeur's license in lieu of bail in traffic cases: § 15-605.

²State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL¹

CHAPTER

1. SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES.
2. PERSONNEL RULES AND REGULATIONS MANUAL.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. INFECTIOUS DISEASE CONTROL POLICY.
5. TRAVEL AND EXPENSE POLICY.
6. DRUG-FREE WORKPLACE POLICY.
7. PERMIT REQUIRED CONFINED SPACE PROGRAM.
8. CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY.
9. ELECTRONIC SYSTEMS AND TOOLS POLICY.
10. LAPTOP COMPUTER AND REMOVAL STORAGE DEVICE SECURITY POLICY.
11. EXPOSURE CONTROL PLAN (BLOODBORNE PATHOGENS).
12. IDENTITY THEFT POLICY.
13. WIRELESS COMMUNICATION DEVICE POLICY.

CHAPTER 1

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

SECTION

- 4-101. Declaration of policy.
- 4-102. Execution of agreements.
- 4-103. Withholdings from salaries or wages.
- 4-104. City's contributions.
- 4-105. Records and reports.

4-101. Declaration of policy. It is hereby declared to be the policy and purpose of the city to extend, at the earliest date, to the employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old-age and survivors' insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of such policy, and for the purpose, the city shall take such action as may be required by applicable state or federal laws or regulations. (1982 Code, § 1-901)

¹See Ordinance No. 1110 (March 1994) of record in the office of the recorder which is an ordinance revising the Classification/Compensation Plan. (As amended by Ord. #1291, June 1998)

See Ordinance #1629, Nov. 2010 for the adoption of the "City of McMinnville, Tennessee-Personnel Rules and Regulations Manual."

Municipal code reference

Energy Operations Plan: title 20, chapter 5.

4-102. Execution of agreements. The mayor is hereby authorized and directed to execute all 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 § 4-101. (1982 Code, § 1-902)

4-103. Withholdings from salaries or wages. Withholdings from salaries or wages of employees and officials for the purpose provided in § 4-101, 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 such laws or regulations. (1982 Code, § 1-903)

4-104. City'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 for the purpose stated in § 4-101, which shall be paid over to the state or federal agency designated by such laws or regulations. (1982 Code, § 1-904)

4-105. Records and reports. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations relating to federal old-age and survivors' insurance. (1982 Code, § 1-905)

CHAPTER 2

PERSONNEL RULES AND REGULATIONS MANUAL¹

SECTION

- 4-201. Manual adopted.
- 4-202. Designation of manual.
- 4-203. Revisions to manual.
- 4-204. Severability.
- 4-205. Provisions to supersede former rules.

4-201. Manual adopted. "Personnel Rules and Regulations Manual" which is shown as Exhibit A to this ordinance² and incorporated into this chapter and made a part hereof by reference is enacted and is made the official personnel rules and regulations for the City of McMinnville, Tennessee, which manual embodies and contains rules, regulations, policies, instructions, and the like, all of which are enacted, adopted, and ordained as the official personnel rules and regulations of the City of McMinnville, Tennessee, until repealed, modified, amended, or invalidated.

(1) All full-time employees employed on the date the personnel rules and regulations takes effect will be eligible to participate in the city's matching funds for supplemental retirement. Any full-time employee hired after the date of passage of this ordinance will be required to be an employee continuously for a minimum of one (1) year before becoming eligible to participate in the city's matching funds for supplemental retirement. (1982 Code, § 1-1101, as replaced by Ord. #1172, Nov. 1995, Ord. #1365, Aug. 2000, Ord. #1537, June 2007, Ord. #1586, April 2009, and Ord. #1629, Nov. 2010)

4-202. Designation of manual. The Personnel Rules and Regulations Manual as set out in Exhibit A² hereto shall be designated as the City of McMinnville, Tennessee, Personnel Rules and Regulations Manual. (1982 Code, § 1-1102, as replaced by Ord. #1172, Nov. 1995, Ord. #1365, Aug. 2000, Ord. #1537, June 2007, Ord. #1586, April 2009, and Ord. #1629, Nov. 2010)

4-203. Revisions to manual. The personnel rules and regulations contained in said manual may be changed, altered, amended, deleted, modified,

¹This chapter was originally titled "Personnel Rules" (1982 Code) and was replaced by Ord. #1172 (Nov. 1995) and amended by Ord. #1211 (Aug. 1996). Ord. #1365 (Aug. 2000) replaced Ord. #1172 and any amendments thereto by adopting a new "Personnel Rules and Regulations Manual."

²Ord. #1629, Nov. 2010 with Exhibit A and any amendments thereto are of record in the office of the recorder.

revoked, rescinded, or repealed by the Board of Mayor and Aldermen of the City of McMinnville. (1982 Code, § 1-1103, as amended by Ord. #1083, Sept. 1993, and replaced by Ord. #1172, Nov. 1995, and Ord. #1365, Aug. 2000)

4-204. Severability. The provisions of the said personnel rules and regulations manual are hereby declared to be severable; and if any rule, section, or subsection, provision, exception, sentence, clause, phrase, or parts of these rules and regulations be held by any court to be invalid or unconstitutional, the same shall not invalidate or impair the validity, force, and effect of any other rule, section, or subsection, provisions, exception, sentence, clause, phrase, or parts of these rules and regulations unless it clearly appears that such other part or parts is wholly or necessarily dependent for its operation upon the part or parts so held invalid or unconstitutional, the remainder of these rules and regulations shall continue in full force and effect, it being the corporate intent, now hereby declared, that these rules and regulations would have passed even if such unconstitutional or void matter had not been included herein. (1982 Code, § 1-1104, as replaced by Ord. #1172, Nov. 1995, and Ord. #1365, Aug. 2000)

4-205. Provisions to supercede former rules. The provisions in the personnel rules and regulations shall supersede all rules formerly in effect unless otherwise specified therein. (1982 Code, § 1-1105, as replaced by Ord. #1172, Nov. 1995, and Ord. #1365, Aug. 2000)

4-206–4-220. [Deleted.] These sections were deleted by Ord. #1365, Aug. 2000.

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-301. Title.
- 4-302. Purpose.
- 4-303. Coverage.
- 4-304. Standards authorized.
- 4-305. Variances from standards authorized.
- 4-306. Administration.
- 4-307. Funding the program.

4-301. Title. This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the City of McMinnville. (1982 Code, § 1-1001, as replaced by Ord. #1367, Oct. 2000)

4-302. Purpose. The City of McMinnville, in electing to establish and maintain an effective occupational safety and health program for its employees, shall:

- (1) Provide a safe and healthful place and condition of employment.
- (2) Make, keep, preserve, and make available to the Commissioner of Labor of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor 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.
- (3) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards and provide for education and notification of all employees of the existence of this program. (1982 Code, § 1-1002, as replaced by Ord. #1367, Oct. 2000)

4-303. Coverage. The provisions of the Occupational Safety and Health Program for the employees of the City of McMinnville shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of McMinnville whether part-time or full-time, seasonal or permanent. (1982 Code, § 1-1003, as replaced by Ord. #1367, Oct. 2000)

¹See Ord. #1367, Exhibit A "plan of operation for the occupational safety and health program for the employees of the City of McMinnville," which is of record in the recorder's office.

4-304. Standards authorized. The occupational safety and health standards adopted by the board of mayor and aldermen 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 5). (1982 Code, § 1-1004, as replaced by Ord. #1367, Oct. 2000)

4-305. Variances from standards authorized. The City of McMinnville may, upon written application to the Commissioner of Labor 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, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, Title 5. Prior to requesting such temporary variance, the safety director 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 safety director shall be deemed sufficient notice to employees. (as added by Ord. #1367, Oct. 2000)

4-306. Administration. For the purposes of this chapter, the city administrator shall appoint a person who shall be 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 city's plan. 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. (as added by Ord. #1367, Oct. 2000)

4-307. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the board of mayor and aldermen. (as added by Ord. #1367, Oct. 2000)

CHAPTER 4

INFECTIOUS DISEASE CONTROL POLICY

SECTION

- 4-401. Purpose.
- 4-402. Coverage.
- 4-403. Administration.
- 4-404. Definitions.
- 4-405. Policy statement.
- 4-406. General guidelines.
- 4-407. Hepatitis B vaccinations.
- 4-408. Reporting potential exposure.
- 4-409. Hepatitis B virus post-exposure management.
- 4-410. Human immunodeficiency virus post-exposure management.
- 4-411. Disability benefits.
- 4-412. Training regular employees.
- 4-413. Training high risk employees.
- 4-414. Records and reports.
- 4-415. Legal rights of victims of communicable diseases.

4-401. Purpose. It is the responsibility of the City of McMinnville to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the City of McMinnville, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (Ord. #1036, May 1992)

4-402. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

- (1) Police and security personnel;
- (2) Firefighters;
- (3) Sanitation and landfill workers; and

(4) Any other employee directly exposed to body fluids or deemed to be at high risk per this policy and an occupational exposure determination. (Ord. #1036, May 1992)

4-403. Administration. This infection disease control policy shall be administered by the city administrator or his/her designated representative who shall have the following duties and responsibilities:

(1) Exercise leadership in implementation and maintenance of an effective infection disease control policy subject to the provisions of this chapter, other ordinances, the city charter, and federal and state law relating to OSHA regulations;

(2) Make an occupational exposure determination for all employee positions to determine a potential and/or possible exposure to blood or body fluids;

(3) Maintain records of all employees and incidents subject to the provisions of this policy;

(4) Conduct periodic inspections to determine compliance with the infection disease control policy by municipal employees which may include interviews and walkarounds;

(5) Coordinate and document all relevant training activities in support of the infection disease control policy;

(6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection disease control policy;

(7) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (Ord. #1036, May 1992)

4-404. Definitions. (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: such as blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

(2) "Exposure" - the contact with blood or other body fluids to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.

(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

(5) "Tuberculosis (TB)" - an acute or chronic communicable disease that usually affects the respiratory system, but may involve any system in the body.

(6) "Universal precautions" - refers to a system of infectious disease control which assumes that every direct contact with body fluid is infectious and requires every employee exposed to direct contact with body fluids to be protected as though such body fluid were HBV-or HIV-infected. (Ord. #1036, May 1992)

4-405. Policy statement. All blood and other body fluids are infectious for several blood-borne pathogens and some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other body fluids which contain visible blood. Universal precautions also apply to semen, (although occupational risk or exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (Ord. #1036, May 1992)

4-406. General guidelines. General guidelines which shall be used by all employees include:

(1) Think when responding to emergency calls and exercise common sense when there is potential exposure to blood or other body fluids which require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands are contaminated with blood or other body fluids to which universal precautions apply, then wash immediately and thoroughly. Hands shall also be washed after gloves are removed even if the gloves appear to be intact. When soap and water or handwashing facilities are not available, then use a waterless antiseptic hand cleaner according to the manufacturers recommendation for the product.

(4) All employees shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The

puncture resistant container shall be located as close as practical to the use area and shall be so constructed that they will not spill their contents if knocked over and will not themselves allow injuries when handled. The containers should not be over-filled as to allow used needles to protrude.

(5) The city will provide gloves of appropriate material, (usually intact latex or intact vinyl) quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or body fluids to which universal precautions apply. The use of gloves is particularly important in the following circumstances:

- (a) While handling an individual where exposure is possible (especially if the individual has active bleeding or abraded or non-intact skin);
- (b) While cleaning or handling contaminated items or equipment;
- (c) While cleaning up an area that has been contaminated with one of the above;
- (d) If the employee has cuts, abraded skin, chapped hands, dermatitis or the like;
- (e) During all cleaning of body fluids and decontaminating procedures;
- (f) During invasive procedures.

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

General purpose utility (rubber) gloves worn by maintenance, housekeeping, laundry personnel may be decontaminated and reused.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or could potentially provide emergency treatment. Pocket masks, resuscitation bags, or other ventilation devices shall be provided in strategic locations as well as to employees in high risk occupation (as defined by this policy) where the need for resuscitation is likely. This will minimize the need for emergency mouth-to-mouth resuscitation.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other body fluids to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other body fluids to skin or clothing. Gowns shall be made of, or lined with, fluid-proof or fluid-resistant material and shall protect all areas of exposed skin.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for at least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous waste" dumpster. NOTE: Sharp objects must be placed in an impervious container and then taken to a hospital for disposal.

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Biological hazard tags shall be used to identify the actual or potential presence of a biological hazard and to identify equipment, containers, or rooms that contain or are contaminated with hazardous biological agents. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD", or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.

(c) The tag's major message shall be presented in either pictographs, written text or both.

(d) The signal word and the major message shall be understandable to all employees who may be exposed to the identified hazard.

(e) Tags shall be affixed as close as safely possible to their respective hazards by a positive means such as string, wire, or adhesive that prevents their loss or unintentional removal.

(f) All employees shall be informed of the meaning of the various tags used throughout the work place and what special precautions are necessary.

(13) Linen soiled with body fluids shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with body fluids.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (Ord. #1036, May 1992)

4-407. Hepatitis B vaccinations. The City of McMinnville shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator. (Ord. #1036, May 1992)

4-408. Reporting potential exposure. City employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof as soon as possible.

(2) Complete the appropriate accident reports and any other specific form required by the Infectious Disease Control Coordinator.

(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the source individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (Ord. #1036, May 1992)

4-409. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg or who refuses testing, the employee who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the employee's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (Ord. #1036, May 1992)

4-410. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the exposed employee should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The employee should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested six (6) weeks, twelve (12) weeks, and six (6) months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health Service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing twelve (12) weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the city to all workers who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #1036, May 1992)

4-411. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303 and any amendments thereto. (Ord. #1036, May 1992)

4-412. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or body fluids. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #1036, May 1992)

4-413. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated materials or infectious waste. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. Employees shall receive training about procedures to be used if they are exposed to needle sticks or to body fluids. (Ord. #1036, May 1992)

4-414. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 form. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200 form.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the city be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (Ord. #1036, May 1992)

4-415. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and/or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the city attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the city attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or city attorney.

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action as well as civil and/or criminal prosecution. (Ord. #1036, May 1992)

CHAPTER 5

TRAVEL AND EXPENSE POLICY

SECTION

4-501. Coverage.

4-502. Travel and expense policy.

4-503. Vehicle use policy.

4-501. Coverage. The mayor, aldermen, members of boards and committees appointed by the mayor or board of aldermen, and other city employees may be reimbursed for reasonable and necessary expenses incurred in the conduct of official business. (Ord. #1081, Sept. 1993)

4-502. Travel and expense policy. The travel and expense policy adopted by the board of mayor and aldermen as set out in the appendix of this municipal code, and made a part of this chapter by reference, and any amendments thereto, will govern the reimbursement of expenses incurred by these municipal officials, board, committee members and city employees. (Ord. #1081, Sept. 1993)

4-503. Vehicle use policy. The Vehicle Use Policy, Resolution No. 1041, adopted by the Board of Mayor and Aldermen on May 20, 1991, and any amendments to that written policy, will govern the use of vehicles by these municipal officials and board and committee members. (Ord. #1081, Sept. 1993)

CHAPTER 6

DRUG-FREE WORKPLACE POLICY¹

SECTION

- 4-601. Manufacture, distribution, etc. of illegal drugs, alcohol, or controlled substances prohibited.
- 4-602. Employees under the influence of alcohol prohibited.
- 4-603. Supervisor to determine if an employee may continue work.
- 4-604. Property subject to inspection.
- 4-605. Employee to abide with policy.
- 4-606. Violation of chapter.
- 4-607. Manufacture, distribution, etc. of controlled substances prohibited while off-duty.
- 4-608. Definitions.
- 4-609. Policy to be posted.
- 4-610. City administrator to establish a drug-free awareness program.

4-601. Manufacture, distribution, etc. of illegal drugs, alcohol, or controlled substances prohibited. The unlawful manufacture, distribution, dispensation, possession, or use of illegal drugs, alcohol, or any other controlled substance is strictly prohibited in the city's workplace, on city property, in city vehicles or while conducting city business off city premises. (Ord. #1058, Nov. 1992)

4-602. Employees under the influence of alcohol prohibited. Being under the influence of alcohol by any employee while performing city business or while in the city's workplace or vehicle is strictly prohibited. "Under the influence" means, for the purpose of this policy, that the employee is affected by a drug or alcohol or the combination of a drug and alcohol in any detectable manner. (Ord. #1058, Nov. 1992)

4-603. Supervisor to determine if an employee may continue work. An employee may continue to work, even though under the influence of a legal drug, if the employee's supervisor has determined, after consulting with medical experts, that the employee does not pose a threat to his or her own safety or the safety of co-workers, members of the public, consumers of city services, etc. and that, the safe or efficient operation of the city's facilities, vehicles, equipment, etc. and the employee's job performance are not

¹Municipal code reference

See chapter 8 of this title for the Controlled Substance and Alcohol Testing Policy.

significantly affected by the legal drug. Otherwise, the employee may be required to take a leave of absence or comply with other appropriate action as determined by the employee's supervisor. "Legal drug" includes prescribed drugs and over-the-counter drugs which have been legally obtained for use and are being used for the purpose for which they were prescribed and manufactured. Employees who are required to take a legal drug shall notify their immediate supervisors of the type and quantity of the medication and/or drug being used. (Ord. #1058, Nov. 1992)

4-604. Property subject to inspection. All property belonging to the City of McMinnville may be subject to inspection at any time without notice as there may be no expectation of privacy in such property.

(1) The term "property" includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.

(2) Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice (unless waived by the affected employee) and in the presence of the employee. Searches and seizures of an employee's locker may be made without permission if such search or seizure does not violate the State or Federal Constitution or general law. (Ord. #1058, Nov. 1992)

4-605. Employee to abide with policy. As a condition of continued employment with the city, all employees must abide by the terms of the city drug-free workplace policy and notify their immediate supervisor of any criminal drug statute convictions for a violation occurring in the city's workplace within five days after such conviction. The city, in turn, shall inform the granting or contracting agency within ten days of such notification by the affected employee. (Ord. #1058, Nov. 1992)

4-606. Violation of chapter. Failure to comply with the provisions or intent of this general order may be used as grounds for disciplinary action up to and including termination, or for requiring the employee to participate satisfactorily in an approved drug abuse assistance or rehabilitation program at the employee's own expense before returning to his or her position at the city. The employee shall be responsible for providing certification to the city that he or she satisfactorily completed the said program and that the program has been approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency. (Ord. #1058, Nov. 1992)

4-607. Manufacture, distribution, etc. of controlled substances prohibited while off-duty. The unlawful manufacture, distribution, dispensation, possession, or use of controlled substances while off-duty and off city premises may also result in disciplinary action up to and including discharge, as these actions can affect on-the-job performance and the confidence

of the public in the city's ability to meet its responsibilities. (Ord. #1058, Nov. 1992)

4-608. Definitions. The terms or words, "conviction", "criminal drug statute", and "controlled substance" are defined as follows:

(1) The term "conviction" is as defined at 41 USCS Section 706(4) and means a finding of guilt (including a plea of nole contenders) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes. A drug related charge disposed of under pre-trial diversion shall be considered a conviction under this policy.

(2) The term "criminal drug statute" is as defined at 41 USCS Section 706(5) and means a state or federal criminal statute involving manufacture, distribution, dispensation, use, or possession or any controlled substance.

(3) The term "controlled substance" is as defined at 41 USCS Section 706(3) and means a controlled substance in schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C.S. 812), and/or as defined under Tennessee state law. (Ord. #1058, Nov. 1992)

4-609. Policy to be posted. Notice of the city's aforesaid drug-free workplace policy shall be posted on all designated employee bulletin boards and a statement notifying all city employees that the unlawful manufacture, distribution, dispensation, possession, sale or use of a controlled substance is strictly prohibited in the workplace and the specific actions that will be taken against employees for violations of such prohibition shall be sent to each employee in their pay envelope. (Ord. #1058, Nov. 1992)

4-610. City administrator to establish a drug-free awareness program. The city administrator be and is hereby authorized to establish a drug-free awareness program to inform employees about

- (1) the dangers of drug abuse in the workplace;
- (2) the city's policy of maintaining a drug-free workplace;
- (3) any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) the penalties that may be imposed upon employees for drug abuse violations. (Ord. #1058, Nov. 1992)

CHAPTER 7

PERMIT REQUIRED CONFINED SPACE PROGRAM

SECTION

4-701. Employees to be protected and exercise caution.

4-702. Available in recorder's office.

4-701. Employees to be protected and exercise caution. Employees required to enter confined spaces, which includes public works, water and wastewater, and emergency medical rescue personnel, should at all times have access to proper protective equipment, and should exercise great caution in situations when entering such spaces as defined by the standard. (Ord. #1146, § 1, Feb. 1995)

4-702. Available in recorder's office. The attached Permit-Required Confined Space Program (marked Exhibit "A" and incorporated into this chapter by reference)¹ be and is hereby adopted and shall be the official policy of the City of McMinnville, Tennessee, regarding permit-required confined space entry. A copy of the policy shall be kept in the city recorder's office and distributed to all employees in high risk occupations. (Ord. #1146, § 2, Feb. 1995)

¹See Ord. #1146 of record in the office of the recorder.

CHAPTER 8

CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY¹

SECTION

- 4-801. Policy adopted.
- 4-802. Designation of policy.
- 4-803. Revisions to policy.
- 4-804. Severability.
- 4-805. Federal regulations to prevail.
- 4-806. Provisions of controlled substances and alcohol testing policy are supplemental.

4-801. Policy adopted. The Controlled Substances and Alcohol Testing Policy prepared for the City of McMinnville, Tennessee, to comply with the regulatory requirements promulgated by the Federal Highway Administration (FHWA) and the Federal Department of Transportation (DOT) for alcohol and controlled substances testing for employees in safety-sensitive positions as required by the Omnibus Transportation Employee Testing Act of 1991, embodying and containing rules, regulations, prohibitions, policies, procedures, instructions, etc. in words and figures of the Controlled Substances and Alcohol Testing Policy attached hereto as Exhibit 1 to this ordinance² and made a part of this chapter by reference as fully as if copied herein verbatim be and is hereby adopted. (Ord. #1184, § 1, Dec. 1995)

4-802. Designation of policy. The Controlled Substances and Alcohol Testing Policy shall be designated as the "City of McMinnville, Tennessee - Controlled Substances and Alcohol Testing Policy for Employees in Safety-Sensitive Positions Which Require a Commercial Driver's License." (Ord. #1184, § 2, Dec. 1995, modified)

4-803. Revisions to policy. The Controlled Substances and Alcohol Testing Policy may be changed, altered, amended, deleted, modified, revoked, rescinded or repealed by the Board of Mayor and Aldermen of the City of McMinnville, Tennessee. (Ord. #1184, § 3, Dec. 1995, modified)

¹This chapter was amended by Ord. #1184A, Feb. 2001, and Ord. #1419, July 2002 by extending the policy "to include all City of McMinnville personnel, and to all pre-employment, reasonable suspicion, random, post accident, return to duty and follow-up alcohol and control substance testing regardless of department.

These ordinances are of record in the recorder's office.

²See Ord. #1184 (Dec. 1995) of record in the office of the recorder.

4-804. Severability. The provisions of the Controlled Substances and Alcohol Policy are hereby declared to be severable; and if any rule, section or subsection, provision, exception, sentence, clause, phrase or parts of the Controlled Substances and Alcohol Testing Policy be held by any court to be invalid or unconstitutional, the same shall not invalidate or impair the validity, force and effect of any other rule, section or subsection, provisions, exception, sentence, clause, phrase, or parts of the Controlled Substances and Alcohol Testing Policy unless it clearly appears that such other part or parts is wholly or necessarily dependent for its operation upon the part or parts so held invalid or unconstitutional, the remainder of the Controlled Substances and Alcohol Testing Policy shall continue in full force and effect, it being the corporate intent, now hereby declared, that the Controlled Substances and Alcohol Testing Policy would have passed even if such unconstitutional or void matter had not been included herein. (Ord. #1184, § 4, Dec. 1995)

4-805. Federal regulations to prevail. In the event of any conflict that may arise between the provisions of the city's Controlled Substances and Alcohol Testing Policy and the regulations promulgated by the FHWA or the DOT in accordance with the Omnibus Transportation Employee Testing Act of 1991, the provisions of the applicable federal regulations shall prevail. (Ord. #1184, § 5, Dec. 1995)

4-806. Provisions of controlled substances and alcohol testing policy are supplemental. The provisions of the Controlled Substances and Alcohol Testing are intended to supplement the City of McMinnville's Drug-Free Workplace Policy as adopted by the Board of Mayor and Aldermen of the City of McMinnville, by Ordinance No. 1058, passed on second and final reading on November 2, 1992, and the said Drug-Free Workplace Policy shall remain in full force and effect, unless subsequently amended by the board. (Ord. #1184, § 6, Dec. 1995)

CHAPTER 9

ELECTRONIC SYSTEMS AND TOOLS POLICY

SECTION

- 4-901. Purpose.
- 4-902. Applicability.
- 4-903. Definition.
- 4-904. Ownership.
- 4-905. Confidentiality.
- 4-906. Uses of electronic systems and information.
- 4-907. Internet access.
- 4-908. Unauthorized access.
- 4-909. Employee responsibility.
- 4-910. Monitoring of electronic mail and internet use.
- 4-911. Access to electronic system.
- 4-912. Violation of policy.

4-901. Purpose. To establish the proper use of electronic equipment, systems and/or tools provided by the City of McMinnville to its employees for the purpose of performing job functions including communication, information exchange and research. (Ord. #1311, Feb. 1999)

4-902. Applicability. The provisions of this policy apply to all employees of the City of McMinnville, including full-time, part-time and temporary employees. (Ord. #1311, Feb. 1999)

4-903. Definition. Electronic systems are all hardware, software, and tools owned by the City of McMinnville and available for official use by City of McMinnville employees including; but not limited to, computers, electronic mail (e-mail), voice mail, calendaring systems such as the internet. (Ord. #1311, Feb. 1999)

4-904. Ownership. All electronic systems, hardware, software, temporary or permanent files and any related systems or devices are the property of the City of McMinnville. These include but are not limited to computers, network equipment, software, voice mail, documents, spreadsheets, calendar entries, appointments, tasks, and notes which reside in part or in whole on any city electronic system or equipment.

Supervisors have the authority to inspect the contents of any equipment, file(s), calendars, or electronic mail of their subordinates in the normal course of their supervisory responsibilities. Reasons for review include: system, hardware or software problems; general system failure; a lawsuit against the

city; suspicion of a crime or violation of policy; or a need to perform work or provide a service when the employee is unavailable.

Employees shall give their department head all passwords necessary to access their computers, systems and equipment. (Ord. #1311, Feb. 1999)

4-905. Confidentiality. Employees who use electronic systems and/or tools provided by the City of McMinnville cannot be guaranteed absolute privacy. Any and all opinions made using these systems whether implied or expressed are those of the individual and not necessarily of the City of McMinnville or management. (Ord. #1311, Feb. 1999)

4-906. Uses of electronic systems and information. Electronic systems, hardware, software, tools and information are provided for the purpose of conducting business for the city.

(1) Allowable uses of electronic systems and information include the following, to the extent that these uses are for the purpose of conducting City of McMinnville business:

- (a) To facilitate performance of job functions.
- (b) To facilitate the communication of information in a timely manner.
- (c) To coordinate meetings of individuals, locations, and city resources.
- (d) To communicate with departments throughout the city.
- (e) To communicate with outside organizations as required in order to perform an employee's job functions.

(2) Prohibited uses of electronic systems and information include, but are not limited to, the following:

- (a) Illegal activities.
- (b) Threats, harassment, slander, or defamation.
- (c) Obscene messages or offensive graphical language.
- (d) Political endorsements.
- (e) Commercial activities.
- (f) Using non-business software including games or entertainment software.

(3) Unauthorized uses of electronic systems and information requiring the employee's department head written approval include, but are not limited to, the following:

- (a) Using hardware, related computer equipment and software not purchased and/or owned by the city.
- (b) Listening to voice mail or reading electronic mail of another employee without prior written approval of the employee's department head or city administrator. An employee's supervisor may inspect the contents of voice mail or electronic mail pursuant to paragraph 2, under section "Ownership" of this policy.

(c) Using any city software or system to conduct non-city business or for personal purposes. (Ord. #1311, Feb. 1999)

4-907. Internet access. Internet access will be allowed only to employees who have written approval from their department head.

(1) Internet access shall be strictly limited to city-related business activities.

(2) Time is to be limited on the Internet to that necessary to conduct city-related business. (Ord. #1311, Feb. 1999)

4-908. Unauthorized access. All suspected intrusions via the Internet or by unauthorized employees are to be reported to the department head immediately. (Ord. #1311, Feb. 1999)

4-909. Employee responsibility. The city imposes certain responsibilities and obligations on employees when using city equipment. The following serves as a guide for employees when using e-mail.

(1) Employees are expected to maintain the confidentiality of city information when using the city's computer system to transmit messages. Employees should protect their individual user ID and passwords from unauthorized use.

(2) Because the security of electronic messages cannot be guaranteed, employees should be aware that making a message "confidential" or "private" in the computer system must be done with the expectation that others may have access to all messages, including those marked as "confidential" or "private." Thus, in certain cases, e-mail may not be the proper means of communication.

(3) Employees are expected to demonstrate courtesy and good judgment in the messages they choose to transmit via e-mail. In general, e-mail is most appropriate for short informal messages that include some detail intended for the receiver to keep, for example, to communicate a schedule of events. Telephone or voice mail are recommended for shorter, less detailed communication; hard copy letters or memoranda are recommended for longer, formal communications.

(4) When using the city's computer system, employees are expected to demonstrate the same high standards that apply to other forms of city communication. Employees are prohibited from sending messages containing offensive, abusive, threatening, or other inappropriate language.

(5) Messages that are no longer needed should be deleted from the system on a regular basis. (Ord. #1311, Feb. 1999)

4-910. Monitoring of electronic mail and Internet use. Electronic messages transmitted or received (whether current or deleted) information used or downloaded from the city's computer system, the Internet, or other sources, may be subject to review and investigation. The city may override any

applicable password if necessary. Supervisors are responsible for monitoring performance of employees using e-mail or Internet. E-mail correspondence may be disclosable under the Freedom of Information Act (FOIA) and/or Tennessee Public Records Law (Tennessee Code Annotated, § 10-7-512). (Ord. #1311, Feb. 1999, as amended by Ord. #1361, Sept. 2000)

4-911. Access to electronic system. All systems may be required to have only "password" access and any employee using the system shall be required to have a "password" to use the system. The system shall be restricted to all other personnel. (Ord. #1311, Feb. 1999)

4-912. Violations of policy. Violations of this policy will be reviewed on a case-by-case basis and can result in disciplinary action as listed in Article VII--Disciplinary Actions, § 2., Types of disciplinary actions in the City of McMinnville's Personnel Rules and Regulations.

Copies of this policy shall be provided to each city department head, personnel office and shall be posted on the various department's bulletin boards for a period of ten (10) days before becoming effective. (Ord. #1311, Feb. 1999)

CHAPTER 10

LAPTOP COMPUTER AND REMOVAL STORAGE DEVICE SECURITY POLICY

SECTION

4-1001. Purpose.

4-1002. Protection of confidential data.

4-1003. Reporting loss or theft of equipment or data.

4-1001. Purpose. Every employee, official or any authorized person using a City of McMinnville laptop computer or removal storage device is responsible for protecting the confidential information stored, created, processed or transmitted via the computer or device.

Only persons showing necessity to perform specific job-related duties shall be authorized to use municipal laptop computers and/or removable storage devices. Department heads may grant this approval. (as added by Ord. #1580, Oct. 2008)

4-1002. Protection of confidential data. Every user of a laptop computer or removal storage device (commonly known as a zip drive) must use reasonable care to protect confidential data.

Protection of confidential data against physical theft or loss, electronic invasion or unintentional exposure is provided through a variety of means, including user care and technological protections. Prior to the use of confidential data via laptop computer or removal storage device, users are responsible for contacting the city administrator to ensure appropriate security hardware and software are in place. The use of unprotected equipment to access or store confidential information is prohibited, regardless of whether the equipment is owned or controlled by the municipality.

The purpose of this policy is to comply with state and federal regulations governing the privacy and security of information, specifically, Tennessee Public Chapter 688, 2008. (as added by Ord. #1580, Oct. 2008)

4-1003. Reporting loss or theft of equipment or data. In the event a municipally-owned or controlled laptop computer or removal storage device is lost or stolen, the theft or loss must be reported immediately to the city administrator.

In the event that confidential information contained on any personally-owned computer or removal storage device is lost or stolen, the theft or loss must be reported immediately to the city administrator.

In the event a municipally-owned laptop computer or removal storage device is lost or stolen, resulting in the unencrypted personal information of any Tennessee resident being, or reasonably believed to be, breached, the

municipality must disclose the breach to the affected citizens in accordance with Tennessee Code Annotated, § 471-18-2107. (as added by Ord. #1580, Oct. 2008)

CHAPTER 11

EXPOSURE CONTROL PLAN (BLOODBORNE PATHOGENS)

SECTION

4-1101. Purpose.

4-1102. Coverage.

4-1103. Program administration.

4-1104. Procedure.

4-1101. Purpose. In providing services to the citizens of the City of McMinnville, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. The purpose of this policy is to have an exposure control plan to assist the City of McMinnville in implementing and ensuring compliance with the standard, thereby protecting our employees. (as added by Ord. #1581, Oct. 2008)

4-1102. Coverage. It is the responsibility of the City of McMinnville to provide all city employees, including but not limited to: full time, part time, seasonal, temporary, and public safety unit volunteers, a place of employment which is free from recognized hazards that may cause death or serious physical harm. (as added by Ord. #1581, Oct. 2008)

4-1103. Program administration. The human resource office is responsible for the implementation of the exposure control plan. The human resource office will maintain, review, and update the exposure control plan at least annually, and whenever necessary to include new or modified tasks and procedures.

Those employees who are determined to have occupational exposure to blood or Other Potentially Infectious Materials (OPIM) must comply with the procedures and work practices outlined in this exposure control plan.

The City of McMinnville will maintain and provide all necessary Personal Protective Equipment (PPE) as required by the standard. The City of McMinnville will ensure that adequate supplies of the aforementioned equipment are available in the appropriate sizes.

The human resource office will be responsible for training, documentation of training, and making the written exposure control plan available to employees and TOSHA representatives.

Based on tasks employees perform which could result in exposure to bloodborne pathogens, the determination is made without regard to the use of PPE.

(1) **Tasks.** The following tasks and procedures have been determined to have actual or potential exposure to blood or other potentially infectious material:

- (a) Procedures involving direct patient contact at a police or fire call;
- (b) The loading/unloading of garbage;
- (c) Work performed around the sewer system;
- (d) Assisting an injured person.

(2) Occupational/job classification. Occupations/positions in which routine or reasonably anticipated tasks or procedures performed include actual or potential exposure to blood or potentially infectious material: firefighters, police officers, water maintenance employees, wastewater plant employees; water plant employees, solid waste collection and disposal employees, public works employees, and parks and recreation employees.

Occupations/positions in which routine or reasonably anticipated tasks or procedures performed include little or no risk of exposure to blood or other potentially infectious material: clerical works in all departments. (as added by Ord. #1581, Oct. 2008)

4-1104. Procedure. (1) Engineering and work practice controls. Used to prevent or minimize exposure to bloodborne pathogens. Safety devices are reviewed and evaluated as needed to determine effectiveness and adopted when appropriate based on exposure occurrences or new safety products available. Any employee having a suggestion about safety devices should notify his/her department head.

- (a) Examples of engineering controls include personal protective equipment such as gowns, gloves, goggles, and face masks.

- (b) Wash or emesis basins are cleaned and decontaminated as soon as feasible after visible contamination.

- (c) Broken glassware which may be contaminated is picked up using mechanical means, such as a brush or dust pan.

(2) Universal or standard precautions. Observed in instances which have the potential for contact with blood and other potentially infectious materials. Procedures involving blood or other potentially infectious materials are to be performed in such a manner as to minimize splashing, spraying, and aerosolization of these substances.

- (a) All body fluids shall be considered potentially infectious.

(3) Hand washing. The single most important means of preventing transmission of infection. Employees shall use antimicrobial soap provided for fifteen (15) seconds, applying friction. Rinse under warm water and dry with paper towel; turn faucet off with a clean paper towel.

If hands are not visibly soiled, hand sanitizer is available for use. Employees should apply enough to cover the hands up to the wrist area and allow to dry.

(4) Sharps disposal. Contaminated needles and sharps must be discarded in containers that are closable, puncture resistant, labeled or color coded, and leak-proof.

(5) Food and drink. Eating, drinking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure. Food and drinks shall not be kept in refrigerators, freezers, shelves, cabinets, or on countertops or bench tops where blood or other potentially infectious materials are present.

(6) Handling of specimens and equipment. Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited; specimens of blood or other potentially infectious materials shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport, or shipping; equipment which may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and decontamination as necessary. If decontamination is not feasible, a readily observable label must be attached to the equipment stating which portions are contaminated.

(7) Personal Protective Equipment (PPE). Where occupational exposure remains after institution of engineering and work practice controls, appropriate personal protective equipment will be used. PPE will be considered appropriate only if it does not permit blood or other potentially infectious materials to pass through to each employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use.

(a) PPE is provided by the City of McMinnville at no cost to the employee.

(b) PPE includes, but is not limited to, eye protection, gloves, aprons, head coverings, utility gloves, gowns, face shields, and ventilation devices.

(8) Cleaning and disinfecting. The fire department training officer, in conjunction with department heads, will determine and implement the appropriate written schedule for cleaning and method of disinfection based upon the location within the facility, type of surface to be cleaned, type of soil present, and task or procedures being performed.

(a) Cleaning and disinfection. All equipment and environmental surfaces are properly cleaned and disinfected after contact with blood or other potentially infectious materials; work surfaces are decontaminated with a germicide after completion of procedures, when surfaces are overtly contaminated, immediately after any spill of blood or other potential infectious materials; a tuberculocidal disinfectant is used to clean blood spills; equipment which may have become contaminated with blood or other potentially infectious materials is checked, cleaned and decontaminated; reusable items contaminated with blood or other potentially infectious material are cleaned and decontaminated prior to washing and/or reprocessing.

(9) Laundry. Contaminated laundry must be bagged at the location where it is used in an approved bag or container. It must not be sorted or rinsed

in the location of use. All contaminated laundry is cleaned or laundered in such a way that any infectious agents present are inactivated or destroyed.

(a) All soiled laundry is considered contaminated.

(b) Handle contaminated laundry as little as possible, with minimal agitation.

(c) Wear appropriate PPE when handling contaminated laundry: gloves, and, if needed, a gown.

(10) Hepatitis B vaccination requirements. All City of McMinnville full-time employees are offered the vaccination series at no charge to the employee. A consent or waiver for the vaccine must be signed by employees. If an employee initially declines the vaccination, but at a later date decides to receive the series, it will be provided at no cost to the employee. Employees may contact the human resource office for more information.

(a) Education regarding the risk of bloodborne pathogens and hepatitis B vaccine is provided to all employees at the time of orientation and annually.

(11) Post-exposure evaluation and follow-up. In the event of an exposure to blood or other potentially infectious material (ex. body fluids), or any puncture wound (ex. needle sticks), notify your department head or supervisor and contact the human resource office at (931) 473-1209 immediately.

(a) The employee involved should go, as soon as possible, to River Park ER or a designated medical facility.

(b) The employee and/or his supervisor should contact human resources as soon as possible (it is preferable, but not required, that the exposed employee contact human resources).

(c) As with any infectious disease/bloodborne pathogen issue, appropriate reports should be completed and forwarded to human resources as soon as the next business day. The employee should contact human resources to schedule any follow-up doctor's appointments.

(d) If the source is another person he/she should be requested to subject to a blood chemistry profile that would determine any communicable disease he/she may have, known or unknown. The City of McMinnville will cover the costs of said procedure. If the subject in question consents, he/she should then be transported to River Park ER for the procedure.

(e) In the event that the subject in question will not consent to the test, it will not be given at that time. As soon as practical, the exposed employee's department head in conjunction with human resources will contact the district attorney's office and initiate the process to have the court order the test. The department head will communicate as needed with human resources and the employee until the desired outcome is achieved.

A confidential medical evaluation, treatment and follow-up after an occupational exposure to blood or other potentially infectious materials will be

provided at no cost to the employee through the City of McMinnville's workers' compensation carrier at the emergency room of the hospital or a physician on the panel of physicians. The evaluation will include a risk analysis of the exposure, counseling regarding transmission risk associated with exposure, counseling regarding post-exposure prophylaxis for HAV/HBV/HCV and HIV, consent/declination for post-exposure prophylaxis, and an evaluation of reported illnesses associated with exposure. The employee will be provided with proper treatment, results of the source individual's blood testing if available, and health records pertinent to appropriate treatment of employee. (as added by Ord. #1581, Oct. 2008)

CHAPTER 12

IDENTITY THEFT POLICY

SECTION

4-1201. Background.

4-1202. Purpose.

4-1203. Scope.

4-1204. Policy.

4-1205. Additional identity theft prevention program.

4-1206. Responding to red flags.

4-1207. Periodic updates to plan.

4-1208. Program administration.

4-1201. Background. The risk to the municipality, its employees and customers from data loss and identity theft is of significant concern to the municipality and can be reduced only through the combined efforts of every employee and contractor. (as added by Ord. #1582, April 2009)

4-1202. Purpose. The municipality adopts this sensitive information policy to help protect employees, customers, contractors and the municipality from damages related to the loss or misuse of sensitive information.

(1) This policy will:

- (a) Define sensitive information;
- (b) Describe the physical security of data when it is printed on paper;
- (c) Describe the electronic security of data when stored and distributed; and
- (d) Place the municipality in compliance with state and federal law regarding identity theft protection.

(2) This policy enables the municipality to protect existing customers, reducing risk from identity fraud, and minimize potential damage to the municipality from fraudulent new accounts. The program will help the municipality:

- (a) Identify risks that signify potentially fraudulent activity within new or existing covered accounts;
- (b) Detect risks when they occur in covered accounts;
- (c) Respond to risks to determine if fraudulent activity has occurred and act if fraud has been attempted or committed; and
- (d) Update the program periodically, including reviewing the accounts that are covered and the identified risks that are part of this program. (as added by Ord. #1582, April 2009)

4-1203. Scope. This policy and protection program applies to employees, contractors, consultants, temporary workers, and other workers at the municipality, including all personnel affiliated with third parties. (as added by Ord. #1582, April 2009)

4-1204. Policy. (1) Sensitive information policy. (a) Definition of sensitive information. Sensitive information includes the following items whether stored in electronic or printed format:

(i) Credit card information, including any of the following:

- (A) Credit card number (in part or whole);
- (B) Credit card expiration date;
- (C) Cardholder name;
- (D) Cardholder address.

(ii) Tax identification numbers, including:

- (A) Social Security number;
- (B) Business identification number;
- (C) Employer identification numbers.

(iii) Payroll information, including, among other information:

- (A) Paychecks;
- (B) Pay stubs.

(iv) Cafeteria plan check requests and associated paperwork.

(v) Medical information for any employee or customer, including but not limited to:

- (A) Doctor names and claims;
- (B) Insurance claims;
- (C) Prescriptions;
- (D) Any related personal medical information.

(vi) Other personal information belonging to any customer, employee or contractor, examples of which include:

- (A) Date of birth;
- (B) Address;
- (C) Phone numbers;
- (D) Maiden name;
- (E) Names;
- (F) Customer number.

(vii) Municipal personnel are encouraged to use common sense judgment in securing information to the proper extent. Furthermore, this section should be read in conjunction with the Tennessee Public Records Act and the municipality's open records policy. If an employee is uncertain of the sensitivity of a particular piece of information, he/she should contact their supervisor. In the

event that the municipality cannot resolve a conflict between this policy and the Tennessee Public Records Act, the municipality will contact the Tennessee Office of Open Records.

(b) Hard copy distribution. Each employee and contractor performing work for the municipality will comply with the following policies:

(i) File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.

(ii) Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.

(iii) Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive information when not in use.

(iv) Whiteboards, dry-erase boards, writing tablets, etc. in common shared work areas will be erased, removed, or shredded when not in use.

(v) When documents containing sensitive information are discarded they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut or Department of Defense (DOD) approved shredding device. Locked shred bins are labeled "Confidential paper shredding and recycling." Municipal records, however, may only be destroyed in accordance with the city's records retention policy.

(c) Electronic distribution. Each employee and contractor performing work for the municipality will comply with the following policies:

(i) Internally, sensitive information may be transmitted using approved municipal e-mail. All sensitive information must be encrypted when stored in an electronic format.

(ii) Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail:

"This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited." (as added by Ord. #1582, April 2009)

4-1205. Additional identity theft prevention program. If the municipality maintains certain covered accounts pursuant to federal legislation, the municipality may include the additional program details.

(1) Covered accounts. A covered account includes any account that involves or is designed to permit multiple payments or transactions. Every new and existing customer account that meets the following criteria is covered by this program:

(a) Business, personal and household accounts for which there is a reasonably foreseeable risk of identity theft; or

(b) Business, personal and household accounts for which there is a reasonably foreseeable risk to the safety or soundness of the municipality from identity theft, including financial, operational, compliance, reputation, or litigation risks.

(2) Red flags. (a) The following red flags are potential indicators of fraud. Any time a red flag, or a situation closely resembling a red flag, is apparent, it should be investigated for verification.

(i) Alerts, notifications or warnings from a consumer reporting agency;

(ii) A fraud or active duty alert included with a consumer report;

(iii) A notice of credit freeze from a consumer reporting agency in response to a request for a consumer report; or

(iv) A notice of address discrepancy from a consumer reporting agency as defined in § 334.82(b) of the Fairness and Accuracy in Credit Transactions Act.

(b) Red flags also include consumer reports that indicate a pattern of activity inconsistent with the history and usual pattern of activity of an applicant or customer, such as:

(i) A recent and significant increase in the volume of inquiries;

(ii) An unusual number of recently established credit relationships;

(iii) A material change in the use of credit, especially with respect to recently established credit relationships; or

(iv) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(3) Suspicious documents. (a) Documents provided for identification that appear to have been altered or forged.

(b) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.

(c) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.

(d) Other information on the identification is not consistent with readily accessible information that is on file with the municipality, such as a signature card or a recent check.

(e) An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

(4) Suspicious personal identifying information. (a) Personal identifying information provided is inconsistent when compared against external information sources used by the municipality. For example:

(i) The address does not match any address in the consumer report;

(ii) The Social Security Number (SSN) has not been issued or is listed on the Social Security Administration's Death Master File; or

(iii) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.

(b) Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the municipality. For example, the address on an application is the same as the address provided on a fraudulent application.

(c) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the municipality. For example:

(i) The address on an application is fictitious, a mail drop, or a prison; or

(ii) The phone number is invalid or is associated with a pager or answering service.

(d) The SSN number provided is the same as that submitted by other persons opening an account or other customers.

(e) The address or telephone number provided is the same as or similar to the address or telephone number submitted by an unusually larger number of other customers or other persons opening accounts.

(f) The customer or the person opening the covered account fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

(g) Personal identifying information provided is not consistent with personal identifying information that is on file with the municipality.

(h) When using security questions (mother's maiden name, pet's name, etc.), the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(5) Unusual use of, or suspicious activity related to, the covered account. (a) Shortly following the notice of a change of address for a covered account, the municipality receives a request for new, additional,

or replacement goods or services, or for the addition of authorized users on the account.

(b) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example, the customer fails to make the first payment or makes an initial payment but no subsequent payments.

(c) A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

(i) Nonpayment when there is no history of late or missed payments;

(ii) A material change in purchasing or usage patterns.

(d) A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).

(e) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.

(f) The municipality is notified that the customer is not receiving proper account statements.

(g) The municipality is notified of unauthorized charges or transactions in connection with a customer's covered account.

(h) The municipality receives notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible identity theft in connection with covered accounts held by the municipality.

(i) The municipality is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft. (as added by Ord. #1582, April 2009)

4-1206. Responding to red flags. (1) Once potentially fraudulent activity is detected, an employee must act quickly as a rapid appropriate response can protect customers and the municipality from damages and loss.

(a) Once potentially fraudulent activity is detected, gather all related documentation and write a description of the situation. Present this information to the designated authority for determination.

(b) The designated authority will complete additional authentication to determine whether the attempted transaction was fraudulent or authentic.

(2) If a transaction is determined to be fraudulent, appropriate actions must be taken immediately. Actions may include:

(a) Canceling the transaction;

- (b) Notifying and cooperating with appropriate law enforcement;
- (c) Determining the extent of liability of the municipality; and
- (d) Notifying the actual customer that fraud has been attempted. (as added by Ord. #1582, April 2009)

4-1207. Periodic updates to plan. (1) At periodic intervals established in the program, or as required, the program will be re-evaluated to determine whether all aspects of the programs are up to date and applicable in the current business environment.

(2) Periodic reviews will include an assessment of which accounts are covered by the program.

(3) As part of the review, red flags may be revised, replaced or eliminated. Defining new red flags may also be appropriate.

(4) Actions to take in the event that fraudulent activity is discovered may also require revision to reduce damage to the municipality and its customers. (as added by Ord. #1582, April 2009)

4-1208. Program administration. (1) Involvement of management.

(a) The identity theft prevention program shall not be operated as an extension to existing fraud prevention programs, and its important warrants the highest level of attention.

(b) The identity theft prevention program is the responsibility of the governing body. Approval of the initial plan must be appropriately documented and maintained.

(c) Operational responsibility of the program is delegated to human resources.

(2) Staff training. (a) Staff training shall be conducted for all employees, officials and contractors for whom it is reasonably foreseeable that they may come into contact with accounts or personally identifiable information that may constitute a risk to the municipality or its customers.

(b) Human resources is responsible for ensuring identity theft training for all requisite employees and contractors.

(c) Employees must receive annual training in all elements of this policy.

(d) To ensure maximum effectiveness, employees may continue to receive additional training as changes to the program are made.

(3) Oversight of service provide arrangements. (a) It is the responsibility of the municipality to ensure that the activities of all service providers are conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

(b) A service provider that maintains its own identity theft prevention program, consistent with the guidance of the red flag rules and validated by appropriate due diligence, may be considered to be meeting these requirements.

(c) Any specific requirements should be specifically addressed in the appropriate contract arrangements. (as added by Ord. #1582, April 2009)

CHAPTER 13

WIRELESS COMMUNICATION DEVICE POLICY

SECTION

4-1301. Purpose.

4-1302. Policy.

4-1303. Violation.

4-1301. Purpose. As part of the City of McMinnville's commitment to the safe operation of all motor vehicles and moving machinery used by employees to conduct city business, a Wireless Communication Device (hereinafter called "WCD") is not to be used while driving motor vehicles or operating moving machinery or during any time that doing so may cause risk of injury to the employee or those around.

For the purposes of this policy, WCDs include, but are not limited to, wireless phones, computers, on-line email, navigation devices, and any other information or entertainment services or equipment, whether or not such devices are provided by or paid for by the City of McMinnville. (as added by Ord. #1585, April 2009)

4-1302. Policy. If an employee must use a WCD while driving, it should be used only in a life-threatening emergency and when you can not pull to the side of the road and stop, and only in accordance with the following guidelines:

(1) Place the WCD where it can be easily reached or viewed, while keeping your eyes on the road. If you receive an incoming call on the wireless phone at an inconvenient time, let your voice mail answer it for you.

(2) If an employee must take a telephone call while driving while at work, pull into a parking lot or off the road onto a wide shoulder and park the vehicle before retrieving the telephone to make the call. Exercise extreme caution if pulling onto the shoulder of a busy road.

(3) Where possible, the employee must try to make all necessary calls before setting off on a trip, or after arriving safely at your destination.

(4) Use common sense. End wireless phone conversations and discontinue the use of any other WCD during hazardous driving conditions, especially in heavy traffic, ice, snow, sleet, rain, high wind or wind gust. As a driver, the employee's first responsibility is to pay attention to the road.

(5) Avoid any activity that keeps you from watching where you are. Don't take notes, look up phone numbers, or try to reprogram any WCD while driving.

(6) While driving or operating equipment, don't engage in stressful or emotional conversations on your wireless phone. Doing so can be dangerous. Inform anyone that you are talking to that you are driving, and, if necessary,

end phone conversations that have the potential to divert your attention from the road.

(7) The use of text-messaging, instant-messaging and video messaging while operating a motor vehicle or operating moving machinery is prohibited.

Employees shall turn off cellular telephones or set them to silent or vibrate mode during meetings, training, and other times when incoming calls may be disruptive.

Any use of a WCD for personal use should only be done during breaks and meal periods. Friends and family should be made aware of this policy. The city will not be responsible for the loss or damage of personal WCDs brought into the workplace. Department heads have the right to request that the employee provide personal cellular telephone bills and usage reports for calls made during working hours if they have reason to believe that work-hour usage is excessive. (as added by Ord. #1585, April 2009)

4-1303. Violation. Employees who violate this policy are subject to disciplinary action as stated in article VII, sections 1 and 2 of the Personnel Rules and Regulations Manual.¹ (as added by Ord. #1585, April 2009)

¹The Personnel Rules and Regulations Policy is available in the office of the city recorder.

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Recorder to be tax collector.

5-101. Recorder to be tax collector.² The recorder shall be the tax collector for the city and shall collect all property, privilege, and ad valorem taxes levied within the city. (1982 Code, § 6-101)

¹Charter references

For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated, § 6-4-402.

²Municipal code reference

Recorder's duties: title 1, chapter 3.

CHAPTER 2

PROPERTY TAXES

SECTION

- 5-201. Annual tax levy.
- 5-202. Preparation and contents of tax list.
- 5-203. Tax list to be presented to board.
- 5-204. When taxes due; delinquency date.
- 5-205. Distress warrant for delinquent taxes.
- 5-206. Costs and penalties on delinquent taxes.
- 5-207. Employment and compensation of attorney for filing delinquent tax bill.
- 5-208. Tax lien on real estate.
- 5-209. Applicability of law relating to collection and enforcement of state and county taxes.
- 5-210. Report of uncollected taxes to board.

5-201. Annual tax levy. The board of mayor and aldermen shall, at its regular meeting in the month of June each year, or as soon thereafter as practicable, levy a tax commensurate with the wants and needs of the city, and cause a tax list to be made out as provided in § 5-103 and placed in the hands of the recorder to be collected by him. Taxes shall be levied by the board upon all property--real, personal, and mixed--within the limits of the city which by the laws of the state, is subject to taxation by the county. (1982 Code, § 6-201)

5-202. Preparation and contents of tax list. It shall be the duty of the recorder to prepare annually a list of all taxable property, as defined by the state laws, within the corporate limits of the city, to be made up from the assessment lists for that year. The recorder's list shall be made in a well-bound book, with all names alphabetically arranged therein and the amount of taxes due from each taxpayer computed and extended on the book, and with an aggregate showing the total value of lots or tracts of land and the total taxes levied.

The recorder shall add to his list, and value, assess, and collect taxes upon, all property within the corporate limits which has been omitted or overlooked by the tax assessor, and report the same to the board of mayor and aldermen, which may order same assessed. (1982 Code, § 6-202)

5-203. Tax list to be presented to board. The tax list prepared in accord with § 5-202 shall be presented by the recorder to the board of mayor and aldermen at its first regular meeting in September of each year, or as soon thereafter as possible. (1982 Code, § 6-203)

5-204. When taxes due; delinquency date.¹ All taxes shall be due on October first of each year for each respective year and become delinquent March first of each year following. (1982 Code, § 6-204, as replaced by Ord. #1622, Sept. 2010, and Ord. #1633, Feb. 2011)

5-205. Distress warrant for delinquent taxes. The recorder is hereby authorized and empowered to issue a distress warrant, in the name of the city, for all delinquent taxes due the city. Such warrant shall be directed to any policeman, constable, deputy sheriff, or any other person whom the board of mayor and aldermen may designate and authorize to levy and execute such distress warrant against delinquent taxpayers. Any officer collecting such delinquent taxes shall charge, recover, and collect from the taxpayer the same fees and commissions as the law provides in the case of collecting state and county taxes which are delinquent. (1982 Code, § 6-205)

5-206. Costs and penalties on delinquent taxes.² (1) Delinquent taxes shall bear a delinquency rate (interest rate) of 1% per month, which shall begin on the 1st day of May of each year. The delinquency charge shall be accumulated and shall increase at the rate of 1% per month until paid.

(2) To the amount of tax due and payable on any property taxes becoming delinquent after January 1, 1983, a penalty of one-half of one percent (.5%) and interest of one percent (1%) shall be added on the first day of May following the tax due date and on the first day of each succeeding month.

(3) In the event that in the year a reappraisal program is completed and approved by the State Division of Property Assessments the values established in such reappraisal program are turned over to the municipality after October 1 of such year, no penalty and interest shall be added until five months following the tax roll completion date as evidence by written notification

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.

from the assessor of property to the trustee and/or recorder specifically stating the date the tax roll was delivered to the trustee and/or recorder. (1982 Code, § 6-206)

5-207. Employment and compensation of attorney for filing delinquent tax bill. The board of mayor and aldermen is empowered to employ an attorney for the purpose of filing a delinquent tax bill in the courts for the collection of delinquent real estate taxes, and, for his services, such attorney shall receive ten (10) per cent on the total amount recovered which shall be adjudged against the delinquent taxpayers in proportion to their respective taxes. (1982 Code, § 6-207)

5-208. Tax lien on real estate. Taxes levied by the board of mayor and aldermen pursuant to the laws and ordinances of the city, on real estate, and all costs and damages accruing thereon, shall be and remain a lien upon such real estate from the tenth day of January each year until the same are paid in full. (1982 Code, § 6-208)

5-209. Applicability of law relating to collection and enforcement of state and county taxes. The city tax list, when made out and placed in the hands of the recorder or other officers, shall have the same force and effect in his hands as the tax list has in the hands of a collector of state and county taxes, and all laws for the collection and enforcement of same shall, so far as applicable, apply in the collection of the municipal taxes. (1982 Code, § 6-209)

5-210. Report of uncollected taxes to board. The recorder shall report to the board of mayor and aldermen, on October first each year, a list of uncollected taxes, showing the name, description of property, the amount due from each delinquent taxpayer, the aggregate of such taxes, and why same have not been paid. (1982 Code, § 6-210)

CHAPTER 3

PRIVILEGE TAXES

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 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. The proceeds of the privilege taxes herein levied shall accrue to the general fund. (1982 Code, § 6-301)

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 recorder to each applicant therefor upon payment of the appropriate privilege tax. The recorder shall keep a revenue docket which shall show the names of persons procuring such licenses, the kind of license procured, the date of the issuance thereof, the date of its expiration, and the amount collected thereon for each municipal fund. (1982 Code, § 6-302)

CHAPTER 4

WHOLESALE BEER TAX**SECTION**

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1982 Code, § 6-401)

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

PURCHASING¹

SECTION

- 5-501. Office of purchasing agent created.
- 5-502. Definitions.
- 5-503. Procedures.
- 5-504. Funding purchases.
- 5-505. Maintenance of purchase ledger.
- 5-506. Preference to local dealers.
- 5-507. Rotation of purchases.
- 5-508. Specifications and quality standards.
- 5-509. Federal excise tax.
- 5-510. Disposal of surplus supplies.
- 5-511. Claims.
- 5-512. Public inspection of records.
- 5-513. Petty cash purchases.
- 5-514. [Deleted.]

5-501. Office of purchasing agent created. The office of purchasing agent is hereby created for the city and will operate under rules, regulations and requirements of this chapter. The city administrator or the recorder in the absence of the city administrator, in addition to the duties and responsibilities of that office, is hereby designated purchasing agent for the City of McMinnville. (1982 Code, § 6-501, as replaced by Ord. #1378, May 2001)

5-502. Definitions. The following definitions will apply with respect to the provisions of this chapter.

(1) "Purchasing agent." The individual responsible and vested with authority to enforce the provisions of this chapter.

(2) "Alternate agent." Any city employee authorized to make purchases on behalf of the purchasing agent.

(3) "Purchase." The authorized single purchase of supplies, equipment, material or services for and on behalf of the City of McMinnville and for which there is a clear defined budgetary or special authorization. Purchases are classed as follows:

¹State law reference

See Tennessee Code Annotated, §§ 6-54-107 and 12-4-101 for provisions prohibiting municipal officers from having an interest in contracts with the city.

(a) Class "A". The single purchase of supplies, materials, equipment or services exceeding a cost of \$10,000.00. All items in this class must have prior approval of the board of mayor and aldermen.

(b) Class "B". The single purchase of supplies, equipment, material or services exceeding \$5,000.00 but not exceeding \$10,000.00.

(c) Class "C". The single purchase of supplies, equipment, material or services not exceeding \$5,000.00.

(d) Emergency purchase. The single purchase of any item of supplies, material, equipment or services, the urgency of which dictates a waiver of the procedures in 5-503 below in the interest of public safety. (1982 Code, § 6-502, as replaced by Ord. #1378, May 2001)

5-503. Procedures. The following procedures will apply in effecting purchases in all classes.

(1) Class "A". Class "A" purchases will be initiated by request to the purchasing agent. Requests will include complete description of items of material, supplies and equipment. The requests will include complete specifications and any known vendors considered qualified and acceptable as supplier of items being requested. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of \$10,000 except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983, Tennessee Code Annotated, 6-56-301, et seq. and amendments thereto.

(2) Class "B". Class "B" purchases are authorized to be made directly by the department head with approval of the respective committee. Purchases in this category shall be executed by purchase order by competitive bid. At least three (3) bids will be obtained on each purchase by public advertising, telephone or mail, whichever is deemed most appropriate. A bid form reflecting names of bidders and amounts of each bid will be completed and attached to the invoice.

(3) Class "C". Class "C" purchases may be made by any city employee upon authorization of the department head. Purchases of over \$2,500.00 shall be subject to competitive bids as required for Class "B" purchases. All invoices will be reconciled with statements of respective vendors, stamped with "departmental approval" stamp, and forwarded to the accounting department for payment.

(4) Emergency purchase. Emergency purchases include only those items for which public safety would be severely impaired by delay necessary to comply with the administrative procedures of this section. Any department head, or the person acting in his absence, may initiate emergency purchases. The administrative documentation shall be completed within 48 hours after purchase is made.

(5) Action of purchasing agent. (a) Class "A" purchases. The purchasing agent shall advertise for bids via whatever is considered most

expedient and effective means of disseminating information to qualified suppliers. Bids will be awarded by the board of mayor and aldermen based on lowest and/or best bid, reserving the right to reject any or all bids. The purchasing agent shall approve payment only after verification of receipt of purchase by the appropriate departmental superintendent and/or department head unless otherwise specified in the terms of the purchase agreement.

(b) Class "B" and "C" and emergency purchases. The city recorder will approve all such purchases for payment when properly documented as heretofore specified. (1982 Code, § 6-503, as replaced by Ord. #1378, May 2001)

5-504. Funding purchases. For each routine purchase there must be funding authorization in the budget or special authorization from the board. The appropriate fund code must be cited on each requisition, purchase order or invoice forwarded to the accounting department by departmental superintendents and/or department heads. (1982 Code, § 6-504, as replaced by Ord. #1378, May 2001)

5-505. Maintenance of purchase ledger. Each department head shall maintain a purchase ledger of each fund code applicable to his department. Entries shall be recorded for each purchase made showing a running fund balance of that code. No purchase shall be made that will exceed the department budget without special approval of the board of mayor and aldermen. (1982 Code, § 6-505, as replaced by Ord. #1378, May 2001)

5-506. Preference to local dealers. In the purchasing of supplies, materials, and equipment for the city's requirements, preference shall be given those dealers having stores or warehouses within the City of McMinnville --- price, quality, delivery, and service being equal. (1982 Code, § 6-506, as replaced by Ord. #1378, May 2001)

5-507. Rotation of purchases. Purchases for the city shall be distributed or rotated among the various merchants regularly handling or stocking such merchandise --- price, quality, delivery, and service being equal. (1982 Code, § 6-507, as replaced by Ord. #1378, May 2001)

5-508. Specifications and quality standards. Each department head shall have the right to request goods or services that meet whatever standards he considers necessary for efficient operation, however, specifications must not be unduly restrictive for the purpose of favoring a particular brand or manufacturer, but so written that the city will receive at least three competitive bids. (1982 Code, § 6-508, as replaced by Ord. #1378, May 2001)

5-509. Federal excise tax. The City of McMinnville is exempt from the payment of taxes imposed by the federal government, and suppliers should be requested to deduct the amount of such taxes from their bids, quotations, and invoices. (1982 Code, § 6-509, as replaced by Ord. #1378, May 2001)

5-510. Disposal of surplus supplies. The purchasing agent, upon the advice and consent of the board of mayor and aldermen, shall act as the city's agent when supplies, materials, and equipment are to be disposed of by sale or otherwise. (1982 Code, § 6-510, as replaced by Ord. #1378, May 2001)

5-511. Claims. The purchasing agent shall prosecute all claims for shortages, breakages, or other complaints against either shipper or carrier in connection with shipments. (1982 Code, § 6-511, as replaced by Ord. #1378, May 2001)

5-512. Public inspection of records. The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection. (1982 Code, § 6-512, as replaced by Ord. #1378, May 2001)

5-513. Petty cash purchases. Employees making purchases of \$100.00 or less, in instances where an immediate cash payment is required or from business firms that do not normally carry an account for the City of McMinnville, shall be reimbursed by submitting an approved sales ticket for such purchases. (1982 Code, § 6-513, as replaced by Ord. #1378, May 2001)

5-514. [Deleted]. This section was deleted by Ord. #1378, May 2001. (1982 Code, § 6-514, as deleted by Ord. #1378, May 2001)

TITLE 6

LAW ENFORCEMENT¹

CHAPTER

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST

SECTION

- 6-101. Composition of department.
- 6-102. Appointment, compensation, and term of policemen.
- 6-103. Oath of policemen.
- 6-104. General powers and duties of policemen.
- 6-105. Duty of policemen to prosecute violations.
- 6-106. Authority to arrest.
- 6-107. Arrest procedure.
- 6-108. Resisting arrest or interfering with police.
- 6-109. Injuring, interfering with, etc., police dogs.
- 6-110. Election and term of chief of police.
- 6-111. Bond of chief.
- 6-112. General duties of chief.
- 6-113. Authority of chief to execute warrants and subpoenas.
- 6-114. Adoption of policies and procedural manual for the McMinnville Police Department.

6-101. Composition of department. The police department shall consist of the chief of police and such other policemen as the safety committee of the board of mayor and aldermen deem necessary to preserve and secure the peace of the city. (1982 Code, § 1-601)

6-102. Appointment, compensation, and term of policemen. Policemen shall be appointed by the safety committee with the consent of the

¹Municipal code references

Safety committee and its supervision of the police department:

§ 1-112.

Traffic citations, etc.: title 15.

Emergency operations plan: title 20, chapter 5.

board of mayor and aldermen, and the board shall fix their compensation, and they shall serve at the discretion of the safety committee. (1982 Code, § 1-602)

6-103. Oath of policemen. Before entering upon the discharge of their duties, policemen appointed pursuant to this chapter, including the chief, shall take and subscribe to an oath of office faithfully and impartially to discharge their duties. (1982 Code, § 1-603)

6-104. General powers and duties of policemen. It shall be the duty of policemen appointed under this chapter to assist the chief of police in preserving and securing the peace of the city, and they shall promptly arrest all persons whom they know to be violators of the law or persons who they have reasonable cause to believe are violators of the ordinances of the city. Such policemen are vested with all the powers and authority of peace officers and shall be subject to the orders and control of the mayor or acting mayor and the chief of police. (1982 Code, § 1-604)

6-105. Duty of policemen to prosecute violations. It shall be the duty of the policemen to prosecute, before the city judge, in the name of the mayor and aldermen, all suits for violations of ordinances and other laws and rules; provided, however, that any one other than such a policeman may prosecute any or all suits if they so desire. (1982 Code, § 1-605)

6-106. Authority to arrest. A city policeman may arrest in the following cases:

- (1) Whenever any lawful warrant shall come into his hands.
- (2) Whenever any misdemeanor has been committed in his presence.
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it.

In either of the last two (2) cases he may make arrests without any warrant; provided, that the city judge issue a warrant and cause same to be served upon such offender, in all cases, before placing him upon trial. (1982 Code, § 1-606)

6-107. Arrest procedure. Persons arrested for the violations of the ordinances of the city shall be carried immediately before the city judge for trial except:

- (1) When the arrest is made on Sunday,
- (2) When the arrest is made at night,
- (3) When the person arrested is drunk, or
- (4) When the policemen shall deem it necessary for the safe custody of the prisoner or person arrested. In these cases, upon obtaining a mittimus from the city judge, the mayor, or acting mayor, the offender shall be confined to the jail to be tried as early as practicable. (1982 Code, § 1-607)

6-108. Resisting arrest or interfering with police. If any person shall resist arrest, or interfere or obstruct a policeman or other officer of the law in the discharge and performance of any of the duties imposed upon him by the laws and ordinances of the city, such person shall be guilty of a misdemeanor. (1982 Code, § 1-608)

6-109. Injuring, interfering with, etc., police dogs. It shall be unlawful for any person willfully or maliciously to torture, torment, beat, kick, strike, mutilate, injure, disable, or kill any dog used by the police department in the performance of the functions or duties of such department or to interfere with or meddle with such dog while being used by the department or any officer or member. (1982 Code, § 1-609)

6-110. Election and term of chief of police. The chief of police shall be elected, beginning in 1970, by the board of mayor and aldermen at the first regular meeting in June, thenceforth to serve at the will of the board. Said chief of police, in addition to serving at the will of the board, shall also be subject to dismissal at any time for dereliction of duty, conflict of interest, malfeasance, or any other actions giving rise to dismissal for cause. (1982 Code, § 1-610)

6-111. Bond of chief. Before entering upon the discharge of his duties, the chief of police shall enter into a bond, in the penal sum of two thousand dollars (\$2,000.00) payable to the board of mayor and aldermen, which shall be approved by the mayor, conditioned upon his faithful discharge of the duties of the office of chief of police, and for the faithful accounting and paying over of all monies which may come into or pass through his hands. (1982 Code, § 1-611)

6-112. General duties of chief. The chief of police shall:

(1) See that the peace of the city is kept and preserved; that all nuisances therein are abated; report all violations of ordinances; promptly arrest all persons whom he knows or has reason to believe or suspect of being offenders against or violators of the ordinances of the city.

(2) Immediately, upon the knowledge or reasonable belief that any person has committed an offense against the laws or ordinances of the city, prefer complaint therefor before the city judge or other duly authorized officer of the city, state, or county, and procure a warrant for the arrest of such person so offending.

(3) Summons witnesses against such offender and shall summons witnesses for such offender when a subpoena for same has been placed in his hands for that purpose.

(4) Act as prosecutor in the trial of offenders against the city; provided, however, that any person may act as such prosecutor in the absence of the chief of police or his refusal to act as such.

(5) Promptly execute and return all process issued and directed to him.

(6) Do and perform such other duties as may, from time to time, be imposed upon him by the board or the mayor or by ordinance. (1982 Code, § 1-612)

6-113. Authority of chief to execute warrants and subpoenas. The chief of police is hereby authorized to execute, within the corporate limits of the city, all warrants and subpoenas which may come into his hands. (1982 Code, § 1-613)

6-114. Adoption of policies and procedural manual for the McMinnville Police Department. (1) A Policies and Procedural Manual for the Police Department of the City of McMinnville, Tennessee, embodying and containing rules, regulations, procedures, policies, instructions, etc., in words and figures of the policies and procedures attached hereto as Exhibit 1 to this section and made a part of this section as fully as if copied herein verbatim be and is hereby adopted.¹

(2) The Policies and Procedural Manual for the Police Department shall be designated as the "McMinnville Police Policies and Procedural Manual."

(3) The policies and procedures contained in said manual may be changed, altered, amended, deleted, modified, revoked, rescinded or repealed by the board of mayor and aldermen of the City of McMinnville. (Ord. #1035, May 1992, as amended by Ord. #1045, July 1992)

¹Ord. #1035, May 1992, Ord. #1045, July 1992, Ord. #1318, June 1999, and Ord. #1631, Dec. 2010 and attachments thereto are of record in the city recorder's office. See also Ord. #1107 (Feb. 1994) and Ord. #1554 (Feb. 2008) of record in the recorder's office for amendments to the Police Policies and Procedural Manual.

CHAPTER 2

WORKHOUSE

SECTION

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

6-201. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1982 Code, § 1-801)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1982 Code, § 1-802)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines and costs assessed against him. (1982 Code, § 1-803)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. MISCELLANEOUS.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. SMOKE DETECTION DEVICES IN PUBLIC HOUSING.
5. FIREWORKS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 7-101. Fire limits established.
7-102. Releasing water from fire hydrants.

7-101. Fire limits established. The fire limits of the city are hereby established as the area bounded as follows:

On the west by High Street; on the north by Morford Street; on the east by Sparta Street; and on the south in a straight line with Sparta Street to where the line intersects with Jail Street or Colville Street; thence with Jail or Colville Street to High Street. Also a section bounded as follows: Beginning on Sparta Street at a point where Morford Street intersects the same, the same being the northeast corner of the intersection of Morford and Sparta Streets, running thence northwardly with the west side of Sparta Street 125 feet; thence westwardly with a line parallel with to the north edge of Morford Street to the east edge of Chancery Street; thence southwardly with Chancery Street to where the same intersects Morford Street, a distance of 125 feet. Also a section within the city bounded and described as follows:

Beginning on Morford Street, 100 feet west of the intersection of Morford Street with Chancery Street, and running thence northwardly parallel with Chancery Street to a point opposite the northwest corner of Towles Avenue; thence eastwardly with Towles Avenue and on eastwardly with said avenue, 250 feet to a stake; thence southwardly and parallel with

¹Municipal code reference

Building, utility and housing codes: title 12.

Service outside city limits: title 20.

Emergency operations plan: title 20, chapter 5.

Chancery Street to a point in the north boundary line in that of the present fire limits; thence westwardly with the north boundary line of the present fire limits; thence east with the edge of Chancery Street, a corner of the present fire limits; thence southwardly with the east edge of Chancery Street to Morford Street; thence with Morford Street to the beginning. (1982 Code, § 7-101)

7-102. Releasing water from fire hydrants. It shall be unlawful for any unauthorized person to release or obtain water from a fire hydrant in the City of McMinnville, unless done in an emergency situation for which purpose the fire hydrants exist.

Unauthorized persons include anyone who is not a member of the McMinnville Fire Department, who is not a city street department employee, who is not otherwise a city employee and other persons who have not been authorized by the water department to so obtain water. (1982 Code, § 7-102)

CHAPTER 2**FIRE CODE¹****SECTION**

- 7-201. Fire prevention code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Dispensing of gasoline.
- 7-207. Automatic vending devices prohibited; self service pumps.
- 7-208. Storage, etc., of gasoline, etc., in glass containers.
- 7-209. Burning of trash, rubbish, junk, dismantled automobiles, etc.
- 7-210. Removal of buildings.
- 7-211. Variances.
- 7-212. Violations.
- 7-213. Available in recorder's office.

7-201. Fire prevention code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the fabrication, erection, construction, enlargement, alteration, repair, location of structures, dwellings, and their appurtenances, and accessory structures, the International Fire Code,² 2009 edition, and the following appendixes A, B, C, D, E, F, G, H, I, and J, as prepared and adopted by International Code Council, Inc. are hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the International Fire Code, 2009 edition. (1982 Code, § 7-201, replaced by Ord. #1218, Oct. 1996; Ord. #1293, July 1998; and Ord. #1390, July 2001; amended by Ord. #1410, Feb. 2002, and replaced by Ord. #1486, March 2005; Ord. #1520, April 2006, and Ord. #1614, July 2010)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1982 Code, § 7-202)

¹Municipal code reference

Building, utility and housing codes: title 12.

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

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of McMinnville, Tennessee. (1982 Code, § 7-203)

7-204. Storage of explosives, flammable liquids, etc. The limits referred to in § 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 902.1.1 of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1982 Code, § 7-204)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1982 Code, § 7-205)

7-206. Dispensing of gasoline. The dispensing of gasoline or other similar liquids at service stations or garages or from pumps or devices from which the public is served shall be under the direct control of the owner, manager, or an employed attendant of such service station or similar business. (1982 Code, § 7-206)

7-207. Automatic vending devices prohibited; self service pumps. The use of automatic vending devices for the discharge of gasoline or other volatile inflammable liquids for public use in any service station or garage or for any pump or device from which the public is served is prohibited; provided, however, that automatic shutoff nozzles with latch-open devices may be installed and used for the dispensing of gasoline and other similar liquids into fuel tanks of motor vehicles, provided that such nozzles shall be judged to be acceptable for listing as to safety by Examination Service of Underwriters Laboratories, Inc., such corporation being sponsored by the American Insurance Association. All self-service pumps shall be installed with automatic shutoff nozzles used for the dispensing of gasoline or other similar liquids into fuel tanks of motor vehicles. This section shall not be construed to permit the installation and use of coin operated dispensing devices for gasoline or other flammable liquids. (1982 Code, § 7-207)

7-208. Storage, etc., of gasoline, etc., in glass containers. No gasoline, kerosene, or other highly inflammable liquid, whether derived from petroleum or some other source, shall be sold, stored, or handled in a glass container. This prohibition against the storage, sale, or handling of inflammable liquids in a glass container shall not apply to such liquids in common household use such as turpentine, fly and moth sprays, and others where the same are packaged in small containers of one quart size or less. (1982 Code, § 7-208)

7-209. Burning of trash, rubbish, junk, dismantled automobiles, etc. It shall be unlawful for any person to burn trash, lumber, leaves, papers, rags, rubbish, machinery, junk of any kind, character, and description; or discarded, dismantled, or wrecked automobiles and accessories and parts thereof, in any street, alley, road, or vacant lot within the city or within one (1) mile of the city limits, except by special permission of the fire chief. The fire chief may issue a permit setting forth the conditions under which burning is to be conducted, which permit shall further be signed by the person seeking permission as well as by the duly authorized member of the McMinnville Fire Prevention Bureau. Should the person to whom such permit is issued violate any of such permit's terms and conditions, then said person shall be deemed to be guilty of a misdemeanor and, upon conviction, fined according to the general penalty clause for this code of ordinances. (1982 Code, § 7-209)

7-210. Removal of buildings. Any building or buildings wholly or partially destroyed by fire or wear and tear, or any other damage which becomes or may become a danger or hazard to the health or safety of a citizen and which has not been removed or cleaned up within thirty (30) days after written demand for such removal has been made upon the record holder of title to the property upon which is located said building or buildings, shall thereafter be removed and cleared by the fire department or the street department in a manner deemed best. Said removal and clearance shall be at the expense of the record holder of title and shall be added onto said owner's property tax. (1982 Code, § 7-210)

7-211. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1982 Code, § 7-211)

7-212. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby adopted, or fail

to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1982 Code, § 7-212)

7-213. Available in recorder's office. Pursuant to the requirements of section 6-54-502 of the Tennessee Code Annotated, one (1) copy of the Fire Prevention Code has been placed on file in the recorder's office and shall be kept there for public use, inspection, and examination. (as added by Ord. #1218, Oct. 1996, and replaced by Ord. #1293, July 1998, and Ord. #1390, July 2001)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Established.
- 7-302. Composition; appointment and terms of members.
- 7-303. Compensation of chief.
- 7-304. Compensation of regular firemen.
- 7-305. Compensation of volunteer firemen.
- 7-306. Meetings; adoption of rules and regulations.
- 7-307. Clerk.
- 7-308. Designation of and assignments of firemen.
- 7-309. General powers and duties of assistant chief.
- 7-310. Hiring or discharge of all firemen.
- 7-311. Hours of duty for regular firemen.
- 7-312. Duty of members in case of fire.
- 7-313. Members subject to orders of chief.
- 7-314. Failure of members to obey orders.
- 7-315. Honorable discharge of member before expiration of term.
- 7-316. Interfering with members.
- 7-317. Uniform regulations.
- 7-318. Physical examination required of applicants.
- 7-319. Training and compensation of volunteer firemen.
- 7-320. Additional fire marshall position created.

7-301. Established. A fire department is hereby established in and for the city. (1982 Code, § 7-301)

7-302. Composition; appointment and terms of members. The fire department shall consist of a chief to be elected by the board of mayor and aldermen, and the number of officers and firemen shall be determined by the requirements of the Tennessee Inspection Bureau. The term of office of the chief shall be of the same duration as all other department heads. The officers and firemen are to be appointed by the chief of the fire department, and their terms of office shall expire with that of the chief at whose hands they receive their respective appointments. (1982 Code, § 7-302)

7-303. Compensation of chief. Compensation of the chief shall be made and set by the board of mayor and aldermen. (1982 Code, § 7-303)

¹Municipal code reference

Fire department under supervision of the safety committee: § 1-112.

7-304. Compensation of regular firemen. Compensation of regular firemen or full-time firemen shall be made and set by the board of mayor and aldermen. (1982 Code, § 7-304)

7-305. Compensation of volunteer firemen. (1) The volunteer fireman pay scale shall be eight dollars and fifty cents (\$8.50) per fire for all volunteer firemen who attend and participate in the work of a general alarm fire, but in no event will they receive any pay for false alarms.

(2) There shall be no general alarm nor use of volunteer firemen for anything other than buildings inside the municipal limits unless declared an emergency by the fire officials or chairman of the safety committee.

(3) There will be no general alarm nor use of volunteer firemen for burning cars, grass, or trash within the municipal limits, nor for rural fires unless declared an emergency by the fire officials or chairman of the safety committee.

(4) All regular firemen shall be volunteer firemen on their off-duty hours, and they shall receive the same pay as other volunteer firemen when acting in such volunteer capacity.

(5) There shall be no fire calls answered outside the municipal limits for burning cars, grass, or trash unless declared an emergency by the fire officials or chairman of the fire safety committee. (1982 Code, § 7-305)

7-306. Meetings; adoption of rules and regulations. The members of the fire department shall meet at least once each month, the time and place of such meeting to be fixed by the chief, for the transaction of business and for necessary rehearsal in order that they may be proficient in handling the fire trucks, the hoses, and other apparatus of the department. The department shall have the right and power to adopt such rules and regulations as it shall deem proper and necessary to enforce the attendance of members and for other purposes not inconsistent with the ordinances of the city. (1982 Code, § 7-306)

7-307. Clerk. The chief of the fire department shall appoint a clerk of the department who shall keep an accurate record of the proceedings of the business meetings of the department. (1982 Code, § 7-307)

7-308. Designation of and assignments of firemen. The chief shall have authority to transfer and assign firemen where he deems best for the department. (1982 Code, § 7-308)

7-309. General powers and duties of assistant chief. When the chief of the fire department is absent, ill, or otherwise prevented from answering the alarm, or a vacancy occurs in such office, the assistant chief shall perform the duties and exercise all the powers of the chief. (1982 Code, § 7-309)

7-310. Hiring or discharge of all firemen. The chief will be solely responsible with full power and authority for the hiring or discharge of any regular or volunteer firemen. (1982 Code, § 7-310)

7-311. Hours of duty for regular firemen. Hours of duty for regular firemen shall be twenty-four (24) hours on duty and twenty-four (24) hours off duty with the exception of a Kelly day per month for each regular fireman. The Kelly day for each regular fireman shall be determined by the chief. (1982 Code, § 7-311)

7-312. Duty of members in case of fire. It shall be the duty of each member of the fire department, unless prevented by illness of himself or his family or absence from the city, promptly to respond to every alarm of fire and make a diligent and intelligent effort to extinguish or prevent the spread of fire within the city. (1982 Code, § 7-312)

7-313. Members subject to orders of chief. The members of the fire department shall, at all times while in the performance of the duties of their respective offices, be subject to the orders of the chief of the department. (1982 Code, § 7-313)

7-314. Failure of members to obey orders. Any member of the fire department who shall willfully fail or refuse to comply with or obey any orders of the chief or any officer in charge shall be guilty of a misdemeanor and upon conviction fined in accordance with the general penalty clause for this code and be dishonorably discharged from the department. Any officer refusing to obey the orders of his superior officer shall be likewise guilty and so punished. (1982 Code, § 7-314)

7-315. Honorable discharge of member before expiration of term. When any citizen becomes a member of the fire department, he shall not be honorably discharged therefrom before the expiration of his term of enlistment without the consent of the chief. (1982 Code, § 7-315)

7-316. Interfering with members. It shall be unlawful for any person in any manner to interfere with or hinder any member of the fire department in the performance of his duty. (1982 Code, § 7-316)

7-317. Uniform regulations. No regular fireman shall wear his uniform or any part or parts thereof while not on duty. (1982 Code, § 7-317)

7-318. Physical examination required of applicants. Anyone applying for a job as a regular fireman must first pass a physical examination before acceptance for regular employment. (1982 Code, § 7-318)

7-319. Training and compensation of volunteer firemen.

(1) Volunteer firemen are required to attend two training periods each month consisting of two (2) hours each with training periods to be scheduled by the fire chief.

(2) The training program shall be promulgated by and function under the supervision of the fire chief.

(3) The curriculum shall be designed to meet the requirements of the Tennessee Fire Inspection Bureau.

(4) Any volunteer fireman who absents himself from such training periods as much as one-half the actual time such training is held over any consecutive six months' time, without valid cause, shall be subject to dismissal from the department.

(5) Each volunteer fireman will be compensated at a rate of three dollars and fifty cents (\$3.50) for each full training period actually attended and will be paid for all such periods annually at the time when authorized compensation is paid as provided for in § 7-305. (1982 Code, § 7-319)

7-320. Additional fire marshall position created. (1) One (1) additional position of fire marshall shall be created in the fire department.

(2) This position shall be in full-time enforcement of city codes in the same manner as the present fire marshall and shall be subject to the same job description and duties.

(3) The 1996-97 budget has sufficient funds to cover the cost of this position and in the 1997-98 fiscal year this position will be required to be funded. (as added by Ord. #1237, April 1997)

CHAPTER 4

SMOKE DETECTION DEVICES IN PUBLIC HOUSING

SECTION

7-401. Each unit of public housing to have smoke detector.

7-402. Buildings subject to inspection by city fire inspector to have smoke detectors.

7-403. Date of compliance.

7-404. Penalty.

7-401. Each unit of public housing to have smoke detector. Each unit of public housing owned by or under the control of the City of McMinnville, Tennessee, or the McMinnville Housing Authority shall be equipped with and shall contain at least one operative smoke detector. (1982 Code, § 7-501)

7-402. Buildings subject to inspection by city fire inspector to have smoke detectors. All residential units located in buildings subject to inspection by the city fire inspector shall have smoke detectors located in the residential unit section of the building. (1982 Code, § 7-502)

7-403. Date of compliance. All of the units covered in this chapter shall be so equipped with smoke detectors prior to January 1, 1986. (1982 Code, § 7-503)

7-404. Penalty. Any unit covered by this chapter not having a working smoke detector in each of the units after January 1, 1986, shall be fined up to fifty dollars (\$50) for each violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. The owner shall not be fined if they provided an operating smoke detector and the resident deliberately disabled the unit. (1982 Code, § 7-504)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Manufacture prohibited.
- 7-504. Permits required, storage sale and use restricted.
- 7-505. Permit fee.
- 7-506. Business and privilege licenses required and/or transient vendor license.
- 7-507. Permissible type of fireworks.
- 7-508. Conditions for sale and use permissible items.
- 7-509. Retail sale of permissible items--time limitations--exceptions.
- 7-510. Public displays--permits--regulation.
- 7-511. Regulations governing storing, locating or display of fireworks.
- 7-512. Unlawful acts in the sale, handling or private use of fireworks.
- 7-513. Seizure and destruction of fireworks.
- 7-514. Penalty for violation.
- 7-515. Exceptions to application.

7-501. Purpose. The purpose of this chapter is to provide for the sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of McMinnville, Tennessee, within certain guidelines that shall provide for the general safety and welfare of the citizens thereof. (as added by Ord. #1410, Feb. 2002)

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

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

(2) "D.O.T. Class 1.4 common fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class 1.4 common fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles;

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

(4) "Permit" means the written authority of the McMinnville Fire Department issued under the authority of this chapter;

(5) "Person" means any individual, firm, partnership, corporation, LLC or LLP, or any other entity;

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

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

(8) "Special fireworks" means all articles of fireworks that are classified as Class 1.3 explosives in the regulations of the United States Department of Transportation and includes all articles other than those classified as Class 1.4. (as added by Ord. #1410, Feb. 2002)

7-503. Manufacture prohibited. It shall be unlawful for any person, as defined herein, to manufacture within the corporate limits of the City of McMinnville, pyrotechnics, commonly known as fireworks, of any kind or description. (as added by Ord. #1410, Feb. 2002)

7-504. Permits required, storage, sale and use restricted. It shall be unlawful for any person, as defined herein, to store or sell in, or ship into, the corporate limits of the City of McMinnville, 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) Any person, as defined herein, desiring to store and/or sell fireworks within the corporate limits of the City of McMinnville shall make application for a permit to do so on forms provided for that purpose. The fee for the city fireworks permit shall be five hundred dollars (\$500.00) for any structure or any tent, trailer or other temporary structure used for the sale of fireworks, up to one thousand two hundred (1,200) square feet and all over one thousand two hundred (1,200) square feet an additional fifty cents (\$0.50) per square foot.

(2) The application shall include the name of the person making the application, the person, as defined herein, he represents, the business address of both the applicant and the person he represents, the address and description of the premises where the storage and/or the sale of fireworks is contemplated and any other information the fire chief or his designee deems pertinent to aid in the investigation of the application. The application shall also contain and include the following information:

(a) Site plan, to scale, which shall include the dimensions of the structure used for the sale of fireworks.

(b) A copy of the state fire marshal permit.

(c) Documentation of certificate of insurance with a minimum of one million dollars (\$1,000,000.00) in product liability and one million dollars (\$1,000,000.00) in general liability with the City of McMinnville being named as an additional insured on the general liability insurance policy.

(3) The application shall be referred to the McMinnville Fire Chief or his designee who shall interview the applicant and inspect or premises in which the storage and/or sale of fireworks is contemplated and make whatever additional investigation of the applicant or premises he deems appropriate to insure that the premises and its operation by the applicant with not constitute a fire, explosion or similar safety hazard. The fire chief shall make a determination 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 chief shall have to impose reasonable restrictions on the applicant and/or premises.

(4) If the fire chief approves the application, the permit shall be issued by the office of the recorder. If the fire chief's approval is qualified, the restrictions and conditions imposed by the fire chief upon the applicant and/or premises shall be stated in writing in the permit. The permit shall not be transferable to any other person, as defined herein, or on any other premises or location.

(5) If a permit is issued, they shall be valid from April 1st until March 31st of any given twelve month period. (as added by Ord. #1410, Feb. 2002, and amended by Ord. #1557, March 2008)

7-505. Permit fee. The permit fee for the permit provided for in § 7-503 of this chapter shall be one hundred dollars (\$100.00) and the permit shall be valid for twelve (12) months. (as added by Ord. #1410, Feb. 2002)

7-506. Business and privilege licenses required and/or transient vendor license. The issuance of permits provided for herein shall not replace or relieve any person of state, county or municipal business and privilege licenses as now or hereafter provided by law. (as added by Ord. #1410, Feb. 2002, and replaced by Ord. #1557, March 2008)

7-507. Permissible type of fireworks. It is unlawful for any person, as defined herein, to possess, sell or use within the City of McMinnville, or ship into the City of McMinnville, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class 1.4 common fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States

Consumer Product Safety Commission and permitted for use by the general public under its regulations. (as added by Ord. #1410, Feb. 2002)

7-508. Conditions for sale and use of permissible items. No permissible articles of common fireworks shall be sold, offered for sale, or possessed within the City of McMinnville, or used within the city, except as herein provided unless it is properly named to conform to the nomenclature and unless it is certified as "common fireworks" on all shipping cases and by imprinting on the article or retail container "D.O.T. Class 1.4 common fireworks," such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. (as added by Ord. #1410, Feb. 2002)

7-509. Retail sale of permissible items--time limitations--exceptions. Permissible articles of fireworks may be sold at retail in the City of McMinnville from June 8th through July 8th, and December 1st through December 31st and January 1st and 2nd of each year only; however, the use of such fireworks is restricted to the hours from 1:00 P.M. until 12:00 A.M. on the dates when fireworks are permitted to be sold only; however, any use of fireworks in residential areas after 10:30 P.M. shall be considered disturbing the peace where residents have complained to the police department, and the police department has notified the user(s) to discontinue the use of fireworks. However, Class "C" fireworks may be discharged in residential zoned districts from 11:30 P.M., Central Time, December 31st until 12:30 A.M., Central Time, January 1st. "Fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps contained twenty-five one-hundredths (25/100) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers, containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or per chlorate salts may not exceed five (5) grams of composition per item), emergency flares, matches, and cigarette loads, the sale and use of which shall be permitted at all times. (as added by Ord. #1410, Feb. 2002)

7-510. Public displays--permits--regulations. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of McMinnville shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulation or the United

States Department of Transportation as "Class 1.3 special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the McMinnville Fire Department, and applied for and received a permit for such display issued by the state fire marshal and from the City of McMinnville Fire Department. Applications for permits for such public displays shall be made in writing to the McMinnville Fire Department and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to holders of a permit for public fireworks display shall be confined to holders of a distributors permit only.

Permit fees for public display provided for in this section shall be \$150.00 but the fee may be waived in the discretion of the board of mayor and aldermen for any non-profit organization requesting the permit. (as added by Ord. #1410, Feb. 2002)

7-511. Regulations governing storing, locating or display of fireworks. (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten (10) feet of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "FIREWORKS--NO SMOKING" in letters not less than four (4) inches high. No fireworks shall be sold at retail at any location where paints, oils, or varnishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

(2) All fireworks devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision. (as added by Ord. #1410, Feb. 2002)

7-512. Unlawful acts in the sale, handling or private use of fireworks. (1) It is unlawful to:

1. Offer for retail or to sell any fireworks to children under the age of twelve (12) years or to any intoxicated or irresponsible person;
2. Explode or ignite fireworks within two hundred feet (200') of any church, hospital, funeral home, school, industrial complex, fuel distribution center, commercial lumber yard, property of the City of

McMinnville, or in the City of McMinnville downtown business areas, and where fireworks are stored, sold or offered for sale;

3. 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.

(2) All items of fireworks which exceed the limits of D.O.T. Class 1.4 common fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from shipment into, manufacture, possession, sale or use within the City of McMinnville for any purpose. This subsection shall not affect display fireworks authorized by this chapter. (as added by Ord. #1410, Feb. 2002)

7-513. Seizure and destruction of fireworks. (1) The McMinnville Fire Department shall seize as contraband any fireworks other than "Class 1.4 common fireworks" or "special fireworks" for public displays, which are sold, displayed, used or possessed in violation of this chapter.

(2) Before any seized fireworks may be destroyed:

1. If the owner of such seized fireworks is known, the McMinnville Fire Department shall give notice by certified mail or personal service to such owner, of the fire department's intention to destroy such seized materials. Such notice shall inform the owner of the owner's right to a hearing. Upon the request of the owner, the fire department shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, and Chapter 5.

2. If the identity of the owner of any seized fireworks is not known to the McMinnville Fire Department, the fire department personnel shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such seizure, and the fire department's intention to destroy such fireworks. The notice shall be published once and if no person claims ownership of the fireworks within ten (10) days of the date of the publication, the McMinnville Fire Department may proceed to destroy the fireworks. If the owner does claim the fireworks within the time specified, a hearing as set out in this subsection shall be held. (as added by Ord. #1410, Feb. 2002)

7-514. Penalty for violation. Any person, as defined herein, that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than \$50. Each day shall constitute a separate offense. In addition, the city recorder or the

McMinnville Fire Department may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years. (as added by Ord. #1410, Feb. 2002)

7-515. Exceptions to application. (1) 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 classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, or as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes only from the state fire marshal, and after approval of the county agricultural agent of the county in which the fireworks are to be used and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the City of McMinnville.

(2) Further exempt are fireworks/or fireworks displays that might be other than the use of Class 1.4 common fireworks when used solely for a public exhibition of such items either when displayed or discharged. (as added by Ord. #1410, Feb. 2002)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Sale of intoxicating liquor for consumption off premises prohibited.
- 8-102. Leasing building for sale or manufacture of intoxicating liquor for consumption off premises prohibited.

8-101. Sale of intoxicating liquor for consumption off premises prohibited. It shall be unlawful for any person to sell or offer for sale, as a beverage or otherwise, for off premises consumption any whiskey, brandy, homebrew, beer, or other intoxicating liquor or beverage of an alcoholic content of more than five per cent (5%) by weight, within the City of McMinnville, Tennessee. (1982 Code, § 2-101, as replaced by Ord. #1442, Nov. 2002)

8-102. Leasing building for sale or manufacture of intoxicating liquor for consumption off premises prohibited. It shall be unlawful for any person to lease, rent, or let to any other person any building within the city to be used or occupied for the purpose of selling or manufacturing therein any whiskey, brandy, homebrew, beer, or other intoxicating liquor or beverage of an alcoholic content of more than five percent (5%) by weight, for off premises consumption within the City of McMinnville, Tennessee. (1982 Code, § 2-102, as replaced by Ord. #1442, Nov. 2002)

¹State law reference

Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

SECTION

- 8-201. Defined.
- 8-202. Application of chapter.
- 8-203. Board created.
- 8-204. Composition of board; appointment and term of members.
- 8-205. Organization and quorum of board.
- 8-206. General restriction on location of sales premises.
- 8-207. [Deleted.]
- 8-208. Sale or distribution prohibited between certain hours.
- 8-209. Loud music, etc., prohibited on sales premises.
- 8-210. Consumption of other alcoholic beverages on sale premises.
- 8-211. Sanitary facilities on sales premises.
- 8-212. Sale to intoxicated or mentally incapacitated persons.
- 8-213. Permit holders and employees not to consume alcoholic beverages while on duty.
- 8-214. Permit required; application fee.
- 8-215. Application for permit; approval or disapproval.
- 8-216. Not transferable.
- 8-217. Suspension or revocation.
- 8-218. Sale to twenty-one year olds; permitting twenty-one year olds to consume beer; permitting minors to loiter, etc. on premises.
- 8-219. Civil penalty in lieu of suspension.
- 8-220. Privilege tax.
- 8-221. Special events beer permit.

8-201. Defined. (1) As used in this chapter, the term "beer" shall mean any beer or ale of an alcoholic content of not more than five per cent (5%) by weight.

(2) Unless otherwise stated in this chapter, all references to the "board" shall mean The Alcoholic Beverage Board. (1982 Code, § 2-201)

8-202. Application of chapter. The transportation, storage, sale, distribution, possession, and manufacture of beer or sale of an alcoholic content of not more than five per cent (5%) by weight within the corporate limits of the

¹State law reference

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

city shall be subject to the regulations set out in this chapter. (1982 Code, § 2-202)

8-203. Board created. There is hereby created a board to be known and designated as the alcoholic beverage board of the City of McMinnville whose responsibilities will be to enforce the provisions of this chapter and applicable provisions of Tennessee Code Annotated, title 57, chapter 5, with respect to sale and distribution of beer within the City of McMinnville. (1982 Code, § 2-203)

8-204. Composition of board; appointment and term of members.

(1) Composition and appointment. The board shall consist of five (5) members appointed by the board of mayor and aldermen. One (1) shall be an alderman of the City of McMinnville and four (4) shall be domiciled citizens of the City of McMinnville.

(2) Terms. Terms shall be two (2) years, however, to provide for staggering terms of the domiciled citizens, the current domiciled citizen members shall serve until their present term shall expire, and the two (2) new additionally appointed members shall be appointed for one (1) and two (2) years respectively, so that one of the new members' terms will expire at the same time that the senior incumbent member's term expires September 29, 1998, and the term of the second newly appointed member of the board shall expire simultaneously with the expiration of the junior member's term, September 29, 1999. The term of the aldermanic members shall expire with his term of office on the Board of Mayor and Aldermen of the City of McMinnville unless sooner relieved. All terms shall officially begin on the 29th of September.

(3) Hold over. All qualified domiciled citizen members of the board shall continue to hold office until their successor is selected and qualified. (1982 Code, § 2-204, and replaced by Ord. #1277, Feb. 1998)

8-205. Organization and quorum of board. At all meetings of the board, a majority shall constitute a quorum, and the board shall act only by vote of a majority of all its members. The board shall elect a chairman from its membership each year who shall preside. (1982 Code, § 2-205)

8-206. General restriction on location of sales premises. No sale or distribution of beer shall be made except at places where such sale or distribution will not cause congestion of traffic or interference with schools, churches, or otherwise interfere with public health, safety, and morals. No sale or distribution of beer shall be made at places within 300 feet of any school, public or private, kindergarten or churches.

Distances imposed by this section shall be measured in a straight line from the nearest entrance of the structure out of which the beer is being sold to

the nearest entrance to the structure of the school, church or kindergarten. (1982 Code, § 2-206, as replaced by Ord. #1385, June 2001, and Ord. #1403, Oct. 2001)

8-207. [Deleted.] This section was deleted by Ord. #1431, Sept. 2002 (1982 Code, § 2-207, as replaced by Ord. #1385, June 2001, and deleted by Ord. #1423, July 2002, and Ord. #1431, Sept. 2002)

8-208. Sale or distribution prohibited between certain hours. It shall be unlawful for any person, firm, partnership or corporation to sell or distribute beer or any alcoholic beverages within the corporate limits of the City of McMinnville between the hours of 3:00 a.m. and 8:00 a.m. each day Monday thru Saturday and from 3:00 a.m. until 12:00 noon on Sundays. (1982 Code, § 2-208, as replaced by Ord. #1442, Nov. 2002)

8-209. Loud music, etc., prohibited on sales premises. No loud music, or unusual or obnoxious noise shall be allowed in any place where beer is sold or distributed. (1982 Code, § 2-209, as replaced by Ord. #1385, June 2001)

8-210. Consumption of other alcoholic beverages on sale premises. In any place of business where beer is sold or distributed, the consumption of any alcoholic beverage other than beer shall be unlawful unless the owner has a consumption on premises license from the State of Tennessee and the City of McMinnville. (1982 Code, § 2-210, as replaced by Ord. #1442, Nov. 2002)

8-211. Sanitary facilities on sales premises. In every place of business where beer is sold or distributed and authorized for consumption on premises where sold or distributed proper sanitary facilities shall be provided separate for both sexes. (1982 Code, § 2-211)

8-212. Sale to intoxicated or mentally incapacitated persons. It shall be unlawful for any person to sell any beer, or allow any person to serve or give beer, to any person who is intoxicated or who is feeble minded, insane, or otherwise mentally incapacitated. (1982 Code, § 2-213)

8-213. Permit holders and employees not to consume alcoholic beverages while on duty. No person holding a permit under this chapter and no employee of any such person shall consume any alcoholic beverage while on duty. (1982 Code, § 2-214)

8-214. Permit required; application fee. It shall be unlawful to operate any business engaged in the sale, distribution, manufacture, or storage of beer or beverage governed by this chapter within the city without first obtaining a permit to do so from the Alcoholic Beverage Board.

The application shall be made on such form as the board shall prescribe and/or furnish and shall be accompanied by an application fee of two hundred fifty and no/100 dollars (\$250.00). No portion of the fee shall be refunded to the applicant notwithstanding whether an application is approved or denied.

Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate or association. (1982 Code, § 2-215, as replaced by Ord. #1106, § 1, Feb. 1994)

8-215. Application for permit; approval or disapproval. Before any beer permit shall be issued from the alcoholic beverage board for the sale or distribution of beer, the person, firm, or corporation desiring such a permit for sale or distribution of beer shall file before the board a completed application form furnished by said board. If after consideration by the board it is determined that a permit should be allowed, said application shall be approved. Should the application be disapproved, the reason for disapproval shall be made upon the application and shall be final and binding upon all parties. However, applicants may appeal decisions of the alcoholic beverage board directly to the board of mayor and aldermen.

The application for the permit shall state distinctly whether the applicant will conduct the business in person, or whether he is acting as agent for any other person, corporation, or association, and shall also state specifically the name of the owner or owners of such business, and whether wholesale or retail sale distribution will be made, whether or not beer is for consumption on premises or in conjunction with other commodities for sale. The application shall show that neither the applicant nor any person employed by him in such distribution or sale has been convicted of any violation of the statutes of Tennessee prohibiting the possession, sale, manufacture, or transportation of intoxicating liquors, or any other crime involving moral turpitude within the past ten (10) years.

The application filed pursuant to this section shall at all times be kept on file by the board and shall be open to inspection to the general public, and any person making any false statement in his application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years thereafter. (1982 Code, § 2-216)

8-216. Not transferable. When any person shall move the location of the place of business where beer is sold, he shall be required to obtain from the alcoholic beverage board a new permit in the manner provided by this chapter. Such permit, when issued, shall not be transferable to any other person. (1982 Code, § 2-217)

8-217. Suspension or revocation. The alcoholic beverage board is hereby vested with full power and authority to suspend or revoke any permit issued under this chapter, and, for this purpose, is fully authorized and

empowered to hear and determine complaints brought for that purpose. Any violation of this chapter shall constitute sufficient grounds for the suspension or revocation of any such permit. (1982 Code, § 2-218)

8-218. Sale to twenty-one year olds; permitting twenty-one year olds to consume beer; permitting minors to loiter, etc. on premises. No person holding a permit under this chapter shall sell or permit the sale of any beer to any person under twenty-one (21) years of age or permit any such person to consume any beer on his or her premises. It shall be unlawful to permit any person under twenty-one (21) years of age to loiter on the premises, or employ any person under eighteen (18) years of age directly in the sale or distribution of beer.

Any person eighteen (18) years of age or older may transport, possess, sell, or dispense alcoholic beverages in the cause of his or her employment. Persons under eighteen (18) years of age are not allowed to transport, possess, sell, or dispense alcoholic beverages in the course of his or her employment. (1982 Code, § 2-219)

8-219. Civil penalty in lieu of suspension. The Alcoholic Beverage Board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. The holder's payment of a civil penalty shall not affect his ability to seek review of the civil penalty. (as added by Ord. #1106, § 2, Feb. 1994)

8-220. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of McMinnville, 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 due. (as added by Ord. #1106, § 2, Feb. 1994)

8-221. Special events beer permit. (1) Purpose. The Alcoholic Beverage Board of the City of McMinnville, Tennessee is authorized to issue a

special event beer permit to bona fide charitable, non-profit organizations for special events.

(2) Resolution. The Board of Mayor and Aldermen of the City of McMinnville must pass a resolution which specifically sanctions the special event for which the special event beer permit is to be issued.

(3) Length of permit. The special event beer permit shall not be issued for longer than one (1) seventy-two (72) hour period, subject to the limitations on the hours of sale imposed by this chapter.

(4) Consumption of beer. No special event beer permit shall allow the consumption of beer off the premises of the special event. Beer at such special event shall be served in no larger than a sixteen (16) oz. plastic cup.

(5) Food. There must be food items distributed on the premises or grounds of the special event during the entire time which beer is served.

(6) Nonrefundable application fee. The nonrefundable application fee for such special event permit is one hundred dollars (\$100.00).

(7) Applications. Applications submitted for such special event beer permit shall state the date and location of the special event. Applications submitted for such special event beer permit shall state the name of the organization and agent applying for the permit and shall include documentation showing recognition of its status as a non-profit organization. Applications submitted shall also include the mailing address of the organization and its agent, the names of its officers, the purpose for the request, the person or persons responsible for such event, the persons, groups or entities benefitting from such event and such other information as the alcoholic beverage board requires. If the event premises is not a building, a map and description of the boundaries of the grounds shall be attached to the application.

(7) Insurance. The special event beer applicant must furnish a certificate of insurance which lists the city as an additional insurer which covers the sale of beer with at least a one million dollar (\$1,000,000.00) liability limit.

(8) Failure of the permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of McMinnville shall result in the permittee being denied a special event beer permit for the sale of beer for a period of two (2) years. The permittee shall also be subject to all other consequences provided by law.

(9) For the purposes of this section a bona fide charitable or non-profit organization means any corporation or group chartered by a corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.

(10) Sections 8-209, 8-220 and 11-101 of the City of McMinnville Municipal Code shall not apply to this section. (as added by Ord. #1611, March 2010)

CHAPTER 3

ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES

SECTION

8-301. Definition of "alcoholic beverages."

8-302. Consumption of alcoholic beverages on premises.

8-303. Alcoholic beverage board to have local authority and oversight.

8-304. General restrictions on location of consumption on premises.

8-305. Codes department to be responsible for measuring distances and zoning regulations.

8-306. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

8-307. Annual privilege tax to be paid to the city recorder.

8-308. Advertisements.

8-301. 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 that is intended to be consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (as added by Ord. #1442, Nov. 2002)

8-302. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, 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 McMinnville, Tennessee. It is the intent of the Board of Mayor and Aldermen of the City of McMinnville, Tennessee that Tennessee Code Annotated, title 57, chapter 4, shall be effective in McMinnville, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #1442, Nov. 2002)

8-303. Alcoholic beverage board to have local authority and oversight. The alcoholic beverage board as established in title 8, chapter 2, § 8-203, shall have local authority and oversight to enforce the provisions of this chapter and applicable provisions of Tennessee Code Annotated, title 57, chapter 4, with respect to the consumption of alcoholic beverages on premises in the City of McMinnville, Tennessee. (as added by Ord. #1442, Nov. 2002)

8-304. General restrictions on location of consumption on premises. Sales of alcoholic beverages for on-premises consumption shall not be made at places within 300 feet of any school, public or private, kindergarten or churches. Distances imposed by this section shall be measured in a straight line from the nearest entrance of the structure out of which alcoholic beverages

are being consumed to the nearest entrance to the structure of the school, public or private, church or kindergarten. (as added by Ord. #1442, Nov. 2002)

8-305. Codes department to be responsible for measuring distances and zoning regulations. It shall be the responsibility of the codes department to measure distances that apply in § 8-304 and also to make sure that all zoning regulations are met. They shall furnish the city recorder and the alcoholic beverage board a written report regarding distances and zoning. (as added by Ord. #1442, Nov. 2002)

8-306. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to 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 McMinnville general fund to be paid annually as provided herein 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 McMinnville alcoholic beverages for consumption on the premises where sold. (as added by Ord. #1442, Nov. 2002)

8-307. Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of McMinnville shall remit annually to the city recorder the appropriate tax described in 8-306. Such payment shall be remitted within 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 of the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #1442, Nov. 2002)

8-308. Advertisements. Any person, firm, corporation, joint stock company, syndicate, or association holding a lawful and valid permit as authorized in this chapter, or who holds a valid beer permit from the City of McMinnville, Tennessee, and a valid liquor license from the State of Tennessee for retail sale of beer or alcoholic beverages for consumption on the premises shall only have on the premises one sign advertising the place of business and/or advertising beer or other alcoholic beverages as being sold on the premises, and the size of the sign at the place of business so advertising shall not exceed 24 sq. ft. in size. No other signs of any type or kind shall be erected on the premises advertizing beer or other alcoholic beverages or various brands of beer or other alcoholic beverages for sale in said premises. The holder of any other permit for the retail sale of beer or other alcoholic beverages provided herein shall have no outside advertising of any type or kind whatsoever advertising that beer or other

alcoholic beverages is sold on the premises or advertising the various brands of beer or other alcoholic beverages which are sold on the premises. Any other advertising shall be confined to the interior of the premises for which the permit applies and permittees shall not place signs in the windows that are visible to any persons outside of the premises. (as added by Ord. #1442, Nov. 2002)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS AND LIMOUSINES.
5. POOL ROOMS.
6. CABLE TELEVISION.
7. GARAGE AND YARD SALES.
8. ROADBLOCKS FOR SOLICITATION.
9. SEXUALLY ORIENTED ADULT BUSINESSES.
10. STREET VENDORS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. "Going out of business" sales.
- 9-102. Minors not permitted to play certain amusement machines.

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. (1982 Code, § 5-101)

9-102. Minors not permitted to play certain amusement machines. No owner, operator, manager, or person in charge of any restaurant, cafe, filling station, beer tavern, hotel, motel, drugstore, or any other store, establishment, place of business, or otherwise, shall allow any person under the age of eighteen

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

(18) years to play or operate any game of miniature football, golf, baseball, pinball machine, or any other miniature game, whether made playable by a mechanical device or otherwise, or whether the charge for playing is collected by mechanical device. It shall be the exclusive duty of the owner, operator, manager, or person in charge of any place to ascertain or determine the age of any such player, and ignorance of the age or misinformation relative thereto shall not excuse any such owner, operator, manager, or person in charge. (1982 Code, § 5-102)

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.
- 9-214. Violation and penalty.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1982 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic, or philanthropic organizations, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (1982 Code, § 5-202)

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

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

¹Municipal code references
Privilege taxes: title 5.

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

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

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

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

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

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

(10) At the time of filing the application, a fee of fifty and no/100 dollars (\$50.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1982 Code, § 5-203)

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

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

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1982 Code, § 5-204)

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

address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1982 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a corporate surety or cash bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the City of McMinnville and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be and shall guarantee to any resident of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any resident of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1982 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (1982 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1982 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1982 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1982 Code, § 5-210)

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

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

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

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

(3) When it is reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (1982 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1982 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1982 Code, § 5-213)

9-214. Violation and penalty. Violations of any provisions of this chapter shall upon conviction be punished by a fine of not less than two and no/100 dollars (\$2.00) nor more than fifty and no/100 dollars (\$50.00) and in addition thereto shall pay all costs. Each separate day such violation is continued shall constitute a separate offense. (1982 Code, § 5-214)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.
- 9-305. Trespassing.
- 9-306. Violations.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1982 Code, § 5-301)

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

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer, or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1982 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1982 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1982 Code, § 5-304)

9-305. Trespassing. It shall be unlawful and deemed to be a trespass for any permittee acting under this chapter to fail to leave promptly the private premises of any person who requests or directs him to leave. (1982 Code, § 5-305)

9-306. Violations. Any person violating any provision of this chapter or making a false or fraudulent statement either in his application for a permit or in the process of making a solicitation shall be subject to the penalty provided for violations of this municipal code. In addition to or in lieu of any pecuniary penalty, if a violator has been issued a permit, his permit shall be cancelled and revoked by the court. (1982 Code, § 5-306)

CHAPTER 4

TAXICABS AND LIMOUSINES¹

SECTION

- 9-401. Liability insurance required.
- 9-402. Driver's license required.
- 9-403. Application.
- 9-404. Not to issue to certain persons.
- 9-405. Fee.
- 9-406. Issuance; term.
- 9-407. To be kept on person; inspections.
- 9-408. Taxicabs and limousines to be kept clean and mechanically sound.
- 9-409. Drivers prohibited from engaging in unlawful or immoral acts.
- 9-410. Drivers to comply with laws and ordinances.
- 9-411. Revocation.
- 9-412. Suspension.
- 9-413. Enforcement of chapter.

9-401. Liability insurance required. It shall be unlawful for any person to operate any taxicab or limousine within the corporate limits of the city unless the same is fully covered by public liability and property damage insurance in some reliable insurance company authorized to transact business in this state, protecting passengers, pedestrians, and other persons against injury, death, or property damage, with the following minimum limits. The limits of such insurance to be in accordance with Tennessee Code Annotated, § 55-12-102 and in no event shall the insurance limits be lower than one hundred thousand dollars (\$100,000.00) for injury to any one (1) person; three hundred thousand dollars (\$300,000.00) for injury to more than one (1) person on account of one (1) accident; and one hundred thousand dollars (\$100,000.00) to secure against property damage which may be caused by the negligent operation of such taxicab.

No license to operate a taxicab or limousine shall be issued by the recorder unless the owner thereof files with the recorder a policy of insurance meeting the requirements of this section. (1982 Code, § 5-401, as replaced by Ord. #1603, Nov. 2009)

9-402. Driver's license required. (1) It shall be unlawful for any person to drive a taxicab or limousine within the city limits without first obtaining a taxicab or limousine for hire driver's permit from the city recorder.

¹Municipal code reference
Privilege taxes: title 5.

(2) No person shall drive a taxicab or limousine for hire without a valid Tennessee Class D license with an "F" endorsement (for hire).

(3) The taxicab or limousine driver's permit shall be displayed prominently and in full view of the passenger area along with a photograph of the driver, not less than passport photo size, of a full front facial image of the driver, from the neck up. (1982 Code, § 5-402, as replaced by Ord. #1603, Nov. 2009)

9-403. Application. An applicant for a permit under this chapter shall file a written application as may be required by the recorder, to be signed and sworn to by the applicant. (1982 Code, § 5-403, as replaced by Ord. #1603, Nov. 2009)

9-404. Not to issue to certain persons. No person shall be eligible for a permit to drive a taxicab or limousine who shall have been convicted of any of the following offenses within twelve (12) months before filing application for the permit:

- (1) Possession, transportation, or selling intoxicating liquor;
- (2) Reckless endangerment or assault;
- (3) DUI, DWI, or public intoxication;
- (4) Any type of offense involving moral turpitude. (1982 Code, § 5-404, as replaced by Ord. #1603, Nov. 2009)

9-405. Fee. A fee of twenty dollars (\$20.00) shall be paid to the recorder upon the filing of an application for a taxicab or limousine driver's permit, and a like fee will be paid for any renewal of such permit. (1982 Code, § 5-405, as replaced by Ord. #1603, Nov. 2009)

9-406. Issuance; term. If an applicant for a permit under this chapter meets the requirements set out in this chapter, it shall be the duty of the recorder to issue a permit authorizing the applicant to drive a taxicab or limousine for a period of one (1) year. (1982 Code, § 5-406, as replaced by Ord. #1603, Nov. 2009)

9-407. To be kept on person; inspections. Each taxicab or limousine driver holding a driver's permit issued under this chapter shall at all times keep such permit on his person, subject to the inspection of any police officer upon request. Any such driver who shall fail or refuse to keep such permit on his person or refuse to exhibit it to any police officer upon request shall be guilty of a misdemeanor, and any such permit held by him shall be cancelled by the recorder. (1982 Code, § 5-407, as replaced by Ord. #1603, Nov. 2009)

9-408. Taxicabs and limousines to be kept clean and mechanically sound. All taxicabs or limousines operated in the city shall be kept in a clean and sanitary condition inside and out. They shall also be kept in such

mechanical condition as is reasonably necessary to provide for their satisfactory operation and the safety of the public. They shall be equipped with such lights, brakes, and other mechanical equipment and devices as are required by state law and this code for motor vehicles generally. (1982 Code, § 5-408, as replaced by Ord. #1603, Nov. 2009)

9-409. Drivers prohibited from engaging in unlawful or immoral acts. No driver shall help, aid, assist, or use, or knowingly allow his taxicab to be used, or otherwise engage in the commission of, or in furtherance of, any unlawful or immoral act, purpose, or design. (1982 Code, § 5-409, as replaced by Ord. #1603, Nov. 2009)

9-410. Drivers to comply with laws and ordinances. All taxicabs and limousines shall be operated in strict compliance with this code and the laws of the state. (1982 Code, § 5-410, as replaced by Ord. #1603, Nov. 2009)

9-411. Revocation. A permit issued under this chapter shall be subject to revocation by the recorder upon conviction of the following offenses before any court having jurisdiction thereof:

- (1) Possession, transportation, or selling intoxicating liquors;
- (2) Speeding or reckless driving of any motor vehicle;
- (3) Reckless endangerment and assault;
- (4) DUI, DWI, and public intoxication;
- (5) Any type of offense involving moral turpitude. (as added by Ord. #1603, Nov. 2009)

9-412. Suspension. The driver of any taxicab or limousine holding a permit under this chapter who is found guilty of any willful traffic violation not set out in § 9-411 may have his permit suspended temporarily, or for a definite period, in the discretion of the recorder. (as added by Ord. #1603, Nov. 2009)

9-413. Enforcement of chapter. The recorder is hereby vested with the full power and authority to enforce and carry out the provisions of this chapter. (as added by Ord. #1603, Nov. 2009)

CHAPTER 5

POOL ROOMS¹

SECTION

9-501. Employment of or loitering by minors.

9-502. Minors playing pool.

9-503. Disorderly conduct prohibited.

9-504. Violations.

9-501. Employment of or loitering by minors. It shall be unlawful for any person under the age of eighteen (18) years to be employed in, about, or upon the premises of a pool or billiard room, or to loiter about such establishments. (1982 Code, § 5-502)

9-502. Minors playing pool. Any person under the age of eighteen (18) years may be permitted to play pool or billiards in a pool or billiard room under the following condition only: Such person must file with the operator of such games a valid permit signed by his parent, guardian, or legal agent permitting him in such establishment and to play at such game. (1982 Code, § 5-503)

9-503. Disorderly conduct prohibited. It shall be unlawful for any owner, manager, or proprietor of any place where the business of running a pool or billiard table or tables is conducted to permit or allow any carousing, drunkenness, brawling, or disorderly conduct therein. (1982 Code, § 5-504)

9-504. Violations. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. (1982 Code, § 5-506)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 6

CABLE TELEVISION

SECTION

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television shall be furnished to the City of McMinnville and its inhabitants under franchise granted to National TV Cable Company by the board of mayor and aldermen of the City of McMinnville, Tennessee. The rights, powers, duties and obligations of the City of McMinnville and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹ (1982 Code, § 13-601)

¹For complete details relating to the cable television franchise agreement see Ord. #712, July 2, 1984; Ord. #712A, Nov. 19, 1984; Ord. #1189, Feb. 20, 1996; Ord. #1319, April 5, 1999; Ord. #1325, June 21, 1999; Ord. #1326, July 19, 1999; and Ord. #1472, Nov. 17, 2003 in the office of the city recorder.

CHAPTER 7

GARAGE AND YARD SALES

SECTION

9-701. Purpose.

9-702. Definition.

9-703. Permit required.

9-704. Permit fee.

9-705. Application for permit.

9-706. Duration of the permit.

9-707. Number of permits limited.

9-708. Enforcement.

9-701. Purpose. The purpose of this chapter is to regulate the conduct of garage sales or yard sales in the City of McMinnville so that legitimate private yard sales may be conducted in an orderly fashion. (1982 Code, § 5-701)

9-702. Definition. Garage sales or yard sales are defined as occasional sales of used household goods which have not been purchased for the purpose of resale, and which are owned by the person on whose property the sale is conducted. (1982 Code, § 5-702)

9-703. Permit required. No person, firm, or corporation shall conduct a garage or yard sale within the corporate boundaries of McMinnville without first obtaining a permit for such sale from the building inspector. (1982 Code, § 5-703)

9-704. Permit fee. The cost of a permit for a garage or yard sale shall be seven dollars (\$7.00). (1982 Code, § 5-704, as amended by Ord. #1567, June 2008)

9-705. Application for permit. When applying for a permit, the applicant shall give the site and dates of the sale, general description of items to be sold, and the names of the persons doing the selling. The applicant must also certify that he has not conducted such a sale within the previous six (6) month period. (1982 Code, § 5-705)

9-706. Duration of the permit. The permit shall state on it the dates on which the garage or yard sale is to be held, and the maximum duration of such sales shall be three (3) consecutive days. (1982 Code, § 5-706)

9-707. Number of permits limited. Only one (1) permit for the conduct of a garage or yard sale shall be issued for the same location within a six (6) month period. (1982 Code, § 5-707)

9-708. Enforcement. It shall be the duty and responsibility of the building inspector to enforce and administer the provisions of this chapter. (1982 Code, § 5-708)

CHAPTER 8

ROADBLOCKS FOR SOLICITATION

SECTION

- 9-801. Permit required.
- 9-802. Issuance of permit.
- 9-803. Application for permit.
- 9-804. Solicitation at certain intersections prohibited.
- 9-805. Responsibilities of applicant.
- 9-806. Grandfather clause.

9-801. Permit required. No person shall solicit contributions on the public streets without first obtaining a permit from the city recorder. The city recorder shall issue permits only to organizations that have a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended, or which qualify as a nonprofit tax-exempt organization under the laws of the State of Tennessee or similar laws of another state. The total number of solicitations per month by different organizations shall be limited to 2 per month which shall be the first and third week of each month. The second and fourth or fifth week may be used as alternate times if weather conditions prevent the use of the first and third weeks. In all cases national organizations shall receive preference to provide for solicitations on their recognized national collection dates. (Ord. #1207, § 1, Aug. 1996)

9-802. Issuance of permit. The city recorder shall issue a permit upon his or her finding that:

- (1) All the statements made in the application for a permit are true.
- (2) The solicitation will not be a fraud upon the public.
- (3) The solicitation is not being conducted for private profit.
- (4) No person or organization shall be issued more than one (1) street solicitation permit in any one calendar year unless the solicitation is canceled prior to 10:00 a.m. of the date originally scheduled for solicitation due to weather and the city recorder and/or the city administrator and/or the mayor is notified of the cancellation before 12:00 noon if city hall is open and by 10:00 a.m. on the first day of business if city hall is closed.

(5) Only one permit shall be issued to the organization. However, a copy of the permit shall be present at each site of the solicitation at all times while solicitations are occurring. The permit shall be shown to any police officer of the city upon the officer's request. (Ord. #1207, § 2, Aug. 1996)

9-803. Application for permit. An application for a permit to solicit shall be made by an agent of the organization requesting the permit to the city

recorder on forms provided by the city. The application shall be made and sworn to at least ten (10) days prior to the date on which the solicitation is to occur. The application shall include the following information:

(1) The name, address and headquarters of the organization applying for the permit, and the name and address of the agent of the organization actually making application for the permit.

(2) A copy of a resolution, letter, or other document showing on its face that the solicitation has been authorized by the organization, and that the agent of the organization applying for the permit is authorized to make the application for the permit.

(3) A copy of the 501 (c) (3) or (4) exemption or other documentary evidence that the organization is a nonprofit religious or charitable or civic tax-exempt organization under the laws of the State of Tennessee or similar laws of other states.

(4) The purpose for which the solicitation is to be made.

(5) The names and addresses of the person/persons who will actually be in charge of the solicitation at the scene of the solicitation.

(6) The times and locations at which the solicitation will be made.

(7) Any other information reasonably required by the city recorder to insure that the applicant for the permit complies with the provisions of this chapter.

(8) Permits issued under this chapter shall be in substantially the following form:

STREET SOLICITATION PERMIT

Permit Number: _____

Date: _____

The _____ (name of organization), is hereby authorized to solicit under the provision of Ordinance No. _____, adopted on _____ day of _____, 1996, on the following date:

_____ day of _____, 199____.

THE ISSUANCE OF THIS PERMIT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE CITY OF MCMINNVILLE OR BY ANY OF ITS DEPARTMENTS, OFFICERS OR EMPLOYEES OF THE PURPOSE OR PERSONS CONDUCTING THIS SOLICITATION.

City Recorder

Agent of Soliciting Organization

(9) Appeal or denial of permit. Within five (5) days after receiving notification by registered mail that an organization's application for a permit has been denied, the authorized agent of the organization may file a written request for a public hearing on the denial before the board of mayor and aldermen. Upon the filing of an appeal, the board of mayor and aldermen shall fix a time and a place for the hearing. The hearing shall be held within ten (10) days after the request is filed. At the hearing, the agent of the organization, or any other interested person, may present evidence in support of or against the application. Within ten (10) days after the hearing, the board of mayor and aldermen shall either grant or deny the permit. A copy of the board's decision shall be sent by registered mail to the agent of the organization which made application for the permit.

(10) Permit fee. There shall be a permit application fee of ten dollars (\$10.00). (Ord. #1207, § 3, Aug. 1996)

9-804. Solicitation at certain intersections prohibited. Solicitation at the following intersections shall not be permitted:

- (1) Cadillac Lane at Sparta Hwy.
- (2) 70 Bypass and crossover from 3 Star Mall area
- (3) Red Road and 70 Bypass
- (4) Spring Street/Faulkners Springs Road and 70 Bypass
- (5) Mullican Street and 70 Bypass
- (6) New Smithville Hwy. (Hwy. 56) and 70 Bypass
- (7) New Smithville Hwy. at entrance to Cumberland Plaza Shopping Center
- (8) North Chancery Street/Old Smithville Hwy. and 70 Bypass
- (9) North Chancery Street at entrance to the Wal-Mart Super Center
- (10) North Chancery Street/Hobson Street and New Smithville Hwy.
- (11) North Chancery Street and Morford Street
- (12) North Chancery Street and Main Street
- (13) North Chancery Street and W. Colville Street (Ord. #1207, § 4, Aug. 1996)

9-805. Responsibilities of applicant. All persons making solicitations shall position themselves in places and in a manner where they do not block or impede the flow of traffic and shall:

- (1) In no event stand in the intersection itself, but only on or along the highway and roads that feed into the intersection on the portion of the highway and roads immediately outside the intersection.
- (2) There shall be one person 18 years of age or older at each solicitation area.
- (3) A copy of this chapter shall be presented to each organization receiving the permit. (Ord. #1207, § 5, Aug. 1996)

9-806. Grandfather clause. All organizations which have notified the city recorder's office and/or have been approved by the board of mayor and aldermen to hold a solicitation on city streets on the effective date of this chapter shall be grandfathered in for the time period through December 31, 1996, and are not required to reapply. (Ord. #1207, § 6, Aug. 1996)

CHAPTER 9

SEXUALLY ORIENTED ADULT BUSINESSES¹

SECTION

9-901. Regulation of sexually oriented adult businesses.

9-902. Definitions.

9-903. Specified criminal activity by operators, employees, entertainers and others.

9-904. Location restrictions.

9-905. Measurement.

9-901. Regulation of sexually oriented adult businesses.

(1) **Purpose.** In the development and execution of this section, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area. Uses subject to these controls are as follows:

- Adults-only bookstores
- Adult cabaret
- Adult entertaining centers
- Adults-only motion picture theaters
- Adult motel
- Massage parlors
- Rap parlors
- Saunas

(Ord. #1320, April 1999)

9-902. Definitions. Whenever used in this city code, the following words or phrases shall have the meanings ascribed to them:

(1) "Adults-only bookstores." An establishment having as a substantial or significant portion of its stock in trade, books, magazine, films for sale or viewing on premises by use of motion picture devices or other

¹If any provision of this ordinance, or its application to any person or circumstances, shall be held invalid, the remainder of the ordinance, or the application of the provisions to other persons or circumstances shall not be affected.

coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.

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

- (a) Persons who appear in a state of nudity; or
- (b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (c) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(3) "Adult entertainment center." An enclosed building or part of an enclosed building, no portion of which enclosed building is licensed to sell liquor, which contains one or more coin-operated mechanisms which when activated permit a customer to view a live person unclothed or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals, or the charging of any admission or fee for the reviewing of any such activity.

(4) "Adults-only motion picture theaters." An enclosed building used for presenting films, distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Anatomical Areas" for observation by patrons therein.

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

- (a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

(6) "Massage parlor." An establishment or place primarily in the business of providing massage or tanning services for purposes of sexual stimulation or where one or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

(7) "Nudity." The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the

female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernably turgid state.

(8) "Rap parlor." An establishment or place primarily in the business of providing nonprofessional conversation or similar services for adults.

(9) "Sauna." An establishment or place primarily in the business of providing

- (a) Steam bath, and
- (b) Massage services.

(10) "Sexual conduct." Acts of masturbation, homosexuality, sexual intercourse, or physical contact with a persons' unclothed genitals, pubic area, buttocks, or, if such person be a female, her breast.

(11) "Sexual excitement." The condition of human male or female genitals when in a state of sexual stimulation or arousal.

(12) "Sadomasochistic abuse." Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

(13) "Specified criminal activity." Any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; rape; sexual assault; molestation; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state or other states or countries; for which:

(a) Less than five years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction or plea is for a misdemeanor offense;

(b) Less than ten years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than ten years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed for the last conviction or plea, whichever is the later date, if the conviction or pleas are for two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period;

provided further that the fact that a conviction is being appealed shall have no effect whatsoever on the provisions of this article.

(14) "Specified sexual activities" or "Anatomical areas," for observation by patrons therein. "Specified sexual activities" or "anatomical areas" for the purpose of this chapter are defined as follows:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast. And "Specified Anatomical Areas" as defined:
 - (i) Less than completely and opaquely covered:
 - (A) Human genitals, pubic region,
 - (B) Buttock, and
 - (C) Female breast below a point immediately above the top of the areola. (Ord. #1320, April 1999)

9-903. Specified criminal activity by operators, employees, entertainers and others. (1) No person may own or operate a sexually oriented business within the city if:

- (a) He/she has a record of "specified criminal activity," as defined in this article, if the owner or operator is an individual.
- (b) Any officer, director, partner or other individual having at least 10% direct or beneficial financial interest in the operator has a record of "specified criminal activity," as defined in this article, to work on the premises of the business.
- (2) No operator of a sexually oriented business may allow any employee who has a record of "specified criminal activity," as defined in this article, to work on the premises of the business.
- (3) No operator of a sexually oriented business may allow any entertainer who has a record of "specified criminal activity," as defined in this article, to perform on the premises of the business.
- (4) No operator or employee of a sexually oriented business may knowingly allow any "specified criminal activity" to occur on the premises of the business.
- (5) No operator or employee of a sexually oriented business may allow any patron or customer who has carried out any "specified criminal activity" on the premises of the business to reenter the premises.
- (6) The police department may at any time investigate the criminal record of any person who owns or will own at least ten percent (10%) direct or beneficial interest in the business or of any employee of a sexually oriented business or any entertainer performing at a sexually oriented business. (Ord. #1320, April 1999)

9-904. Location restrictions. (1) No adults-only bookstore, adult cabaret, adults-only motion picture theater, adult entertainment center, adult-motel, massage parlor, rap parlor, or sauna shall be operated or maintained except within the C-3 Highway Commercial District and the I-1 Light Industrial District.

(2) All regulated uses: No adults-only bookstore, adult cabaret, adults-only motion picture theater, adult entertainment center, adult-motel, massage parlor, rap parlor, or sauna shall be operated or maintained within seven hundred fifty (750) feet of a residentially zoned district, the property line of a lot devoted to residential use, a church, a state-licensed day care facility, public library, or private public educational facilities which serve persons age seventeen (17) or younger, an elementary school, a high school, funeral parlor/home, a public park, a business licensed or permitted to sell beer or intoxicating liquors as defined in Title 8 of the McMinnville Municipal Code, or another adults-only bookstore, adult cabaret, adult entertainment center, adults-only motion picture theater, adult motel, massage parlor, rap parlor, or sauna. (Ord. #1320, April 1999)

9-905 Measurement. The distance limitations in subsection 9-904 shall be measured in a straight line from and to the nearest lot lines of said premises.¹ (Ord. #1320, April 1999)

¹If any provision of this chapter, or its application to any person or circumstances, shall be held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, shall not be affected.

CHAPTER 10

STREET VENDORS

SECTION

- 9-1001. Purpose.
- 9-1002. Definitions.
- 9-1003. Exemptions.
- 9-1004. Vending allowed only in designated areas.
- 9-1005. Location restrictions.
- 9-1006. Time restrictions.
- 9-1007. Location and time restrictions for motor vehicle vending.
- 9-1008. Vendor permit and insurance required.
- 9-1009. Application for permit.
- 9-1010. Insurance requirements.
- 9-1011. Issuance or denial of permit.
- 9-1012. Expiration and renewal of permits.
- 9-1013. Transfer of permit prohibited.
- 9-1014. Revocation or suspension of permit.
- 9-1015. Prohibited acts.
- 9-1016. Appeal.
- 9-1017. Reapplication.
- 9-1018. Policemen to enforce.
- 9-1019. Penalty.

9-1001. Purpose. The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic. Regulation of street and sidewalk vending is necessary to ensure safe pedestrian and motor vehicle traffic, and to protect the public health, safety and welfare. It is the intent of the board of mayor and aldermen to serve and protect the health, safety and welfare of the citizens of McMinnville; establish a uniform set of rules and regulations which are fair and equitable; and develop a vending system which will enhance the overall appearance and environment along public streets, pedestrian ways and other public properties. (as added by Ord. #1522, June 2006)

9-1002. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) "Food" or "food products" means any type of edible substance or beverage.
- (2) "Goods" or "merchandise" means any items that are not a food product.

(3) "Pushcart/vending cart" means any approved wheeled vehicle used for carrying property and for being pushed by a person. The term *pushcart* shall be synonymous with the term *vending cart*. All *pushcart/vending carts* must be designed for vending and the aesthetic design must be approved by the city administrator.

(4) "Motorized vehicle" means any vehicle, trailer or bicycle propelled by a motor capable of moving a vending station from place to place which is used for vending food, merchandise or services for sale.

(5) "Motor vehicle vending" means the use of any motorized vehicle, approved for the use by the department of police, and used by a lawfully permitted vendor for the purpose of vending from place to place on city streets. No such vehicle shall be authorized to vend from any fixed location other than the area designated for motorized vehicles and stand vending in § 9-1004 below. For purposes of this chapter, motor vehicles include rolling stores, catering trucks, ice cream trucks and motorized carts.

(6) "Stand" means any table, showcase, bench, rack, pushcart, wagon or any other device or wheeled vehicle which may or may not be moved without the assistance of a motor and which is not required to be licensed and registered by the department of motor vehicles, used for displaying, storing or transporting of articles offered for sale by a vendor.

(7) "Street vendor" or "vendor" means any person who vends. This includes a vendor who is an employee or agent or another. The word *street vendor* shall not be deemed to include *peddlers* on private property who are regulated in title 9, chapter 2, or *charitable solicitors* who are regulated in title 9, chapter 3. Persons licensed as street vendors under this section are not also subject to the peddler ordinance. Other exemptions from the meaning of the term *street vendor* for purposes of this section are set out in § 9-1003 below.

(8) "Vend or vending" means to sell, offer for sale, expose for sale, solicit offers to purchase or to barter food, goods, merchandise, or services in any public area from a stand, pushcart, motor vehicle, or by person with or without these or any other device or other method of transportation. To require someone to pay a fee or to set, negotiate, or establish a fee before providing goods or services constitutes vending. Requests for donations in exchange for merchandise also constitutes vending. (as added by Ord. #1522, June 2006)

9-1003. Exemptions. The provisions of this chapter shall not apply to:

- (1) Any approved participant in any farmer's market;
- (2) Any approved participant in any cultural arts and crafts show, including but not limited to the Fourth of July Celebration, Autumn Street Fair, McMinnville Christmas Parade, Music in the Park;
- (3) Any approved participant in any special event authorized by the city;
- (4) Persons selling at wholesale to dealers;

(5) Boan fide merchants who merely deliver goods in the regular course of business;

(6) Boan fide charitable, religious, patriotic, or philanthropic organizations; or

(7) Any individual vending newspapers, leaflets, pamphlets, bumper stickers or buttons. (as added by Ord. #1522, June 2006)

9-1004. Vending allowed by permit only in designated areas. With the exception of motor vehicle vending which is governed by § 9-1007 below, vending shall be restricted to a designated area of the court square, and areas of the city parking lot containing the water tower and farmer's market pavilion. No vendor shall have any exclusive right to any location.

(1) Designated area for pushcarts. The designated area for pushcart vending shall be the sidewalks around the downtown park surrounding the grassy area of the park.

(2) Designated area for motorized vehicle and stand vending. The designated areas for motorized vehicle and stand vending shall be a marked area of parking spaces along the alley curb of the city parking lot to the left of the rear entrance of the city mall and the upper area of the city parking lot behind the Chamber of Commerce building, in the area between the Chamber of Commerce building and the Citizens Tri-County Bank immediately below the staircase leading down from the court square area.

It shall be unlawful for any vendor, including vendors using motor vehicles, to vend or sell or offer for sale any food, beverage, goods or merchandise on any street or sidewalk within the city limits without first obtaining a permit. (as added by Ord. #1522, June 2006)

9-1005. Location restrictions. No person may vend:

(1) Within ten (10) feet from the outer edge of any entrance of any business, including but not limited to doors, vestibules, driveways, outdoor dining area entries, and emergency exits as measured in each direction parallel to the building line, during the hours that any business on the premises is open to the public or to any person having or conducting lawful business within those premises;

(2) Within ten (10) feet of any bus stop;

(3) Within ten (10) feet of any street corner or marked pedestrian crosswalk;

(4) Within ten (10) feet of any other vendor; or

(5) In any manner that blocks or obstructs the free movement of pedestrians. (as added by Ord. #1522, June 2006)

9-1006. Time restrictions. No solicitation or sales shall be conducted except between the hours of 7:00 A.M. and 11:00 P.M. (as added by Ord. #1522, June 2006)

9-1007. Location and time restrictions for motor vehicle vending.

(1) Every vendor selling food, food products, goods or merchandise from a motor vehicle shall, before making any sale, park the vehicle at the right curb and at least eight feet from any other vehicle that may be parked on the street and is not less than 100 feet from any intersecting street. When the vending vehicle stops, all sound equipment and other devices used to notify customers of the presence of the vendor shall be stopped and shall not be resumed until the vehicle is again put in motion.

(2) No vehicle using equipment or other method of attracting customers shall operate such equipment before 9:00 A.M. or after 9:00 P.M. daily. Furthermore, such equipment shall not be operated within one block of a church between the hours of 7:00 A.M. and 9:00 P.M. on Sundays. No motor vehicle shall be operated within 600 feet of any public school in the city between the hours of 7:30 A.M. and 3:30 P.M. on days in which schools are actually in session.

(3) No motor vehicle shall stop or stand and do business for more than 30 minutes, unless the motor vehicle is permitted to and is positioned in the area designated for motorized vehicles set out in § 9-1004 above.

(4) 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 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. (as added by Ord. #1522, June 2006)

9-1008. Vendor permit and insurance required. No person may vend under this chapter without first obtaining and having in their possession a vendor permit issued by the city administrator, or designee, in accordance with § 9-101 and proof of insurance coverage satisfactory to the city and in accordance with § 9-1010. (as added by Ord. #1522, June 2006)

9-1009. Application for permit. The application for a vendor's permit shall include the following:

(1) The full name and home and business address of the applicant, and the name and address of the owner, if other than the applicant, of the vending business along with proof of the applicant's identity;

(2) A description of the type of food, beverage or goods or merchandise to be sold;

(3) The proposed location where the applicant plans to vend;

(4) A description and photograph of any stand or any other device to be used in the operation of the business;

(5) The fingerprints of the applicant;

(6) The names of at least two (2) reliable property owners of Warren County, Tennessee, who will certify as to the applicant's good character and business responsibility, or in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant that will enable an investigator to properly evaluate the character and business responsibility of the applicant;

(7) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance and if so, the nature of the offense and the punishment or penalty assessed therefore;

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

(9) Proof of compliance with state requirements for licensing food vending carts and possession of the required health permits and certifications that he or she complies with all state and federal laws regarding product vending. (as added by Ord. #1522, June 2006)

9-1010. Insurance requirements. An applicant for a permit under this chapter shall submit proof of an insurance policy, issued by an insurance company licensed to do business in Tennessee, insuring the vendor and the city, as an additional insured, from all claims for damages to property and bodily injury, including death, which may arise from the operation under or in connection with the permit, in an amount not less than \$1,000,000.00. The policy shall provide that the insurance coverage shall not terminate or be canceled prior to the expiration date without thirty (30) days advance written notice to the City of McMinnville. No permit shall issue under this chapter unless and until such proof of insurance is provided to the city. (as added by Ord. #1522, June 2006)

9-1011. Issuance or denial of permit. Each applicant shall be referred to the chief of police for investigation. The chief shall report his findings to the city administrator within seventy-two (72) hours.

Not more than ten (10) business days after the filing of a completed application for a vendor's permit, along with the required proof of insurance policy, the applicant shall be notified by the city administrator, or designee, of the decision to issue or deny the permit.

If, as a result of the background investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory, the city administrator, or designee, shall notify the applicant that his application is disapproved and that no permit will be issued. Any person aggrieved by the action of the chief or the city administrator in the denial of a

permit shall have the right to appeal to the board of mayor and aldermen in accordance with the appeal procedure set out in § 9-1016 below.

If the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory and all other requirements of this chapter have been met, the city administrator, or designee, upon payment of all applicable privilege taxes and fees, shall issue a permit. The permit shall consist of a photograph identification card from the city which shall be worn at all times when vending. The applicant shall pay a fee of \$100.00 to cover the cost for the background investigation and production of the photograph identification card prior to issuance of the permit.

The city recorder shall keep a permanent record of all permits issued. (as added by Ord. #1522, June 2006)

9-1012. Expiration and renewal or permit. A permit issued pursuant to this section is valid for a period of one year from the date of issuance. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (as added by Ord. #1522, June 2006)

9-1013. Transfer of permit prohibited. No vendor's permit issued under the provisions of this chapter shall be used at any time by any vendor other than the one to whom it was issued. (as added by Ord. #1522, June 2006)

9-1014. Revocation or suspension of permit. Following a hearing before the city administrator or designee, written notice of which shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing or delivered to the permittee by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing, setting forth the grounds of complaint and for the time and place of hearing, any permit issued under this chapter may be suspended or revoked for any of the following causes:

- (1) Fraud or misrepresentation contained in the application for the permit;
- (2) Fraud or misrepresentation made in the course of carrying on the business of vending;
- (3) Conduct of the permitted business in an unlawful manner or in such a manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morale;
- (4) The application does not contain the information required by this chapter;
- (5) The permittee has not satisfied the requirements of this chapter;
- (6) The permittee has violated the provisions of this chapter;

- (7) The issuance or continuance of the permit could endanger public safety;
- (8) Conviction of any crime or misdemeanor;
- (9) Abandonment of the location by failure to operate a vending operation during at least one-half of the normal business days available; or
- (10) The failure to comply with other applicable laws.

When it is reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (as added by Ord. #1522, June 2006)

9-1015. Prohibited acts. No vendor shall:

- (1) Leave any stand unattended;
- (2) Operate a stand that is unclean or in an unsafe condition;
- (3) Store, park or leave any stand overnight on any street or sidewalk, or park any motor vehicle other than in a lawful parking place in conformance with city and state parking regulations;
- (4) Sell food or beverages for immediate consumption unless he has available for public use a litter receptacle which is available for his patrons' use;
- (5) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from his/her sales or in his/her area;
- (6) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand from which the business is operated;
- (7) Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of his or her stand where such items have not been described in the application;
- (8) Solicit or conduct business with persons in motor vehicles;
- (9) Vend anything other than that which he or she is licensed to vend;
- (10) Vend without the insurance coverage specified;
- (11) Vend from a stand, motorized vehicle, pushcart, or motor vehicle except in designated and permit authorized areas; or
- (12) Make any effort or allow any effort to be made to attract attention to any food, food products, goods, or merchandise which such vendor proposes to sell by the use of any loud noise, such as a shout, cry, horn, bell or use of any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises, where the sound emitted or produced is of sufficient volume to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks or other public places. This subsection shall not apply to a permitted motor vehicle vendor operating upon the city streets in accordance with the provisions of § 9-1007 above. (as added by Ord. #1522, June 2006)

9-1016. Appeal. Any final decision of the city administrator, or designee, may be appealed by an aggrieved vendor to the McMinnville Board of

Mayor and Aldermen. The 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/her 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 the hearing. (as added by Ord. #1522, June 2006)

9-1017. Reapplication. No vendor whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (as added by Ord. #1522, June 2006)

9-1018. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (as added by Ord. #1522, June 2006)

9-1019. Penalty. Any person violating this chapter shall be guilty of an offense and upon conviction shall pay a penalty of not less than \$25.00 nor more than \$50.00 for each offense and in addition thereto shall pay all costs. Each violation shall constitute a separate offense. (as added by Ord. #1522, June 2006)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. DEFINITIONS.
2. ANIMAL CONTROL DEPARTMENT.
3. PROHIBITED ACTIVITIES.
4. RABIES CONTROL.
5. IMPOUNDMENT.
6. BIRD SANCTUARY.

CHAPTER 1

DEFINITIONS

SECTION

- 10-101. Definitions.
- 10-102. [Repealed.]
- 10-103. [Repealed.]
- 10-104. [Repealed.]
- 10-105. [Repealed.]
- 10-106. [Repealed.]

10-101. Definitions. The following definitions shall apply to the interpretation and the enforcement of this chapter:

(1) "Abandon." To forsake, desert or give up or leave on a street, road, highway, public place or private property, an animal previously under the custody or possession of a person without having secured another owner or custodian or by failing to make reasonable arrangements for adequate care for twenty-four (24) or more consecutive hours.

(2) "Abuse." (a) Failing to provide an animal with adequate food and potable water for more than twenty-four (24) hours without written instructions from a veterinarian who has recommended withholding food and water for medical reasons, or failing to consistently provide food at intervals sufficient to maintain the animal's health and well-being;

(b) Overworking or overdriving any animal causing physical pain, suffering, or death to the animal;

(c) Beating, teasing, provoking, torturing, molesting, harassing, injuring, tormenting, poisoning, or mutilating any animal causing physical pain, suffering, or death to the animal;

(d) Intentionally training, breeding, possessing, harboring or keeping an animal for the purpose of animal fighting;

(e) Keeping any animal under conditions which cause danger, physical pain, suffering, disability or death to the animal or which increase the probability of the transmission of disease; or

(f) Failing to provide an adequate shelter for an animal wherein the animal can be protected from extremes of weather (heat, cold, rain, sun, etc.) and which is large enough to allow the animal to make normal body movements.

(3) "Animal." Excluding fish, any non-human vertebrate species, domestic or non-domestic.

(4) "Animal bite." An animal bite occurs when the teeth of the animal scratch or break the skin of a human being or animal, regardless of the location of the scratch or bite on the body.

(5) "Animal shelter." Any premises designated by the city for the purpose of impounding and caring for all animals found running at large or otherwise subject to impounding in accordance with the provisions of the ordinance comprising this title.

(6) "At large." Any animal shall be deemed to be at large when it is off the owner's real property or premises and not under the restraint of a competent person.

(7) "Attack." An approach to person by an unrestrained animal in a vicious, terrorizing or threatening manner or apparent attitude of attack, without the animal having been teased, molested, provoked, beaten, tortured, or otherwise harmed.

(8) "Confined." An animal is confined within the meaning of this title if it is contained in a secure enclosure.

(9) "Dangerous animal." Any animal that has demonstrated a fierce or dangerous propensity or tendency to do any act, which may endanger persons, property and/or other animals. Exceptions: No animal is dangerous pursuant to this definition if at the time of the threat, the person attacked was teasing, provoking, tormenting, abusing or assaulting the animal or has in the past teased, provoked, tormented, abused or assaulted the animal or was committing or attempting to commit a crime. Nor shall an animal be considered dangerous pursuant to this definition if it has threatened another animal in defense of an attack by the other animal or in protecting or defending its young.

(10) "Dealer." Any person who is licensed by the U.S. Department of Agriculture as a dealer.

(11) "Exhibitor." Any person who is licensed by the U.S. Department of Agriculture as an exhibitor.

(12) "Impoundment." The placement of an animal in the custody of the City of McMinnville Animal Control Department or person or entity duly authorized by ordinance of the board of mayor and aldermen or by state law for such purpose.

(13) "Inherently dangerous animal." Any animal, which, due to its inherent nature, may be considered dangerous to humans and which includes

all animals designated as Class I pursuant to Tennessee Code Annotated, § 70-4-403.

(14) "Kennel, dealer or breeder." Any person, group of persons, partnership or corporation engaged in buying, selling, breeding or boarding animals.

(15) "Livestock." Any domestic or domesticated animal including bovine (including buffalo and bison), ovine, porcine, caprine, equine, and poultry raised for food or in the production of food.

(16) "Neutered." Any male animal which has been operated upon to prevent reproduction.

(17) "Owner." Any person, group of persons, firm, partnership or corporation owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal for more than five (5) days. In the event that the owner of an animal is a minor, the parent or guardian of such minor shall be responsible for compliance with the provisions of this title.

(18) "Owner's real property." Any real property owned or leased by the owner of the animal, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

(19) "Pet." A domesticated animal kept for pleasure rather than utility.

(20) "Premises." A definite portion of real estate including land with its appurtenances, a building or part of a building; cartilage.

(21) "Restraint." An animal is under restraint within the meaning of this title if it is:

- (a) Controlled by means of a chain, leash or other like device;
- (b) On or within a vehicle being driven or parked;
- (c) Within a secure enclosure; or
- (d) Within the dwelling house of the owner.

(22) "Secured enclosure." A fence or structure of adequate height and construction, forming or causing a humane enclosure suitable to prevent the animal from jumping, climbing, tunneling, or otherwise escaping and to prevent the entry of children. A home, mobile home, underground fence or separate garage is not a secure enclosure.

(23) "Spayed." Any female animal which has been operated upon to prevent conception.

(24) "Sterilization." Any surgical or chemical procedure performed by a licensed veterinarian that renders any male or female animal permanently incapable of reproducing.

(25) "Stray." Any animal which is running at large and appears to be lost, unwanted or abandoned; or whose owner is unknown or not readily ascertainable.

(26) "Vicious animal." Any animal that has attacked or injured persons, property and/or other animals without provocation or justification. This would include, but not be limited to, any animal which:

(a) Has bitten, attacked or inflicted serious injury on a human being without provocation on public or private property; and/or

(b) Which has killed or injured a pet or livestock. Exceptions: No animal is vicious pursuant to this definition if at the time of the attack or injury, the person attacked was teasing, provoking, tormenting, abusing or assaulting the animal or has in the past teased, provoked, tormented, abused or assaulted the animal or was committing or attempting to commit a crime. Nor shall an animal be considered vicious pursuant to this definition if it attacked another animal in defense of an attack by the other animal or in protecting or defending its young. (1982 Code, § 3-101, as replaced by Ord. #1583, March 2009)

10-102. [Repealed.] (1982 Code, § 3-102, as repealed by Ord. #1583, March 2009)

10-103. [Repealed.] (1982 Code, § 3-103, as repealed by Ord. #1583, March 2009)

10-104. [Repealed.] (1982 Code, § 3-104, as repealed by Ord. #1583, March 2009)

10-105. [Repealed.] (1982 Code, § 3-105, as repealed by Ord. #1583, March 2009)

10-106. [Repealed.] (1982 Code, § 3-106, as repealed by Ord. #1583, March 2009)

CHAPTER 2

ANIMAL CONTROL DEPARTMENT

SECTION

- 10-201. Establishment and composition of the animal control department.
- 10-202. Duties of the animal control department.
- 10-203. Setting humane animal traps and receiving trapped animals.
- 10-204. Destruction of animals that cannot be seized by reasonable means.
- 10-205. [Repealed.]
- 10-206. [Repealed.]
- 10-207. [Repealed.]
- 10-208. [Repealed.]
- 10-209. [Repealed.]
- 10-210. [Repealed.]
- 10-211. [Repealed.]
- 10-212. [Repealed.]
- 10-213. [Repealed.]
- 10-214. [Repealed.]
- 10-215. [Repealed.]
- 10-216. [Repealed.]
- 10-217. [Repealed.]
- 10-218. [Repealed.]
- 10-219. [Repealed.]

10-201. Establishment and composition of the animal control department. (1) There is hereby created the Animal Control Department of the City of McMinnville, which shall be composed of such employees and/or officials as shall be determined by the city. Such animal control department shall function within the department of public works.

(2) Employees or agents enforcing this chapter shall be designated as animal control officers. In the performance of their duties, animal control officers shall have all the powers, authority and immunity granted under this chapter and by the general laws and statutes of this state to enforce the provisions of this chapter, relating to the care, treatment, control, impounding and disposition of animals.

(3) Except as may be otherwise provided by statutes, laws or ordinances, no officer, agent or employee of the city charged with the duty of enforcing the provisions of this chapter or other applicable laws shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties.

(4) The animal control department, its officers, agents and designees, shall not be liable for any accidents, diseases, injuries or deaths of any animal

while being confiscated or impounded at the city animal shelter. (1982 Code, § 3-201, as replaced by Ord. #1583, March 2009)

10-202. Duties of the animal control department. (1) The animal control department shall be charged with the responsibility of:

(a) Enforcing all state and local laws, ordinances and resolutions relating to the care, custody and control of animals.

(b) Assisting in the enforcement of the laws of the state with regard to vaccination of animals against rabies and the confinement or controlling of dangerous dogs and inherently dangerous animals within the city.

(c) Investigating complaints arising under this title.

(d) Making such canvasses of the city, including the homes in the city, as it deems necessary or as requested by law enforcement of the city for the purpose of ascertaining that all animals are vaccinated against rabies as required by local ordinance or state statute.

(e) Operating, pursuant to policies of the board of mayor and aldermen, the city animal shelter.

(2) It shall be the duty of the animal control department to keep, or cause to be kept, accurate and detailed records of:

(a) Impoundment and disposition of all animals coming into the animal shelter.

(b) Bite cases; complaints, investigations and violations.

(c) All monies belonging to the city derived from impoundment fees, penalties and sales of animals.

(d) All other records deemed necessary by the public works director or designee. (1982 Code, § 3-202, as replaced by Ord. #1583, March 2009)

10-203. Setting humane animal traps and receiving trapped animals. (1) The animal control department is authorized to place, upon request of the property owner or lessee, live-capture animal traps on private or public property to trap and remove stray, at large, abandoned or nuisance animals.

(2) The animal control department is authorized to receive and impound animals that are trapped by other agencies or persons within the city. (1982 Code, § 3-203, as replaced by Ord. #1583, March 2009)

10-204. Destruction of animals that cannot be seized by reasonable means. Notwithstanding any other provision of this chapter, an animal that cannot be seized by reasonable and normal means, retrieved by an animal control officer, trapped in a humane, live-capture animal trap provided by the animal control department, or tranquilized by animal control personnel, may be humanely destroyed in the field upon the authorization of the public

works director or the director's designee. Provided, a vicious animal or dangerous animal so designated by the animal control department, or an animal attacking a person, another pet or livestock may be immediately destroyed if, in the opinion of the public works director or designee or animal control officer, such destruction is necessary for the protection of the public health and safety of the public or livestock. (1982 Code, § 3-204, as replaced by Ord. #1583, March 2009)

10-205. [Repealed.] (1982 Code, § 3-205, as repealed by Ord. #1583, March 2009)

10-206. [Repealed.] (1982 Code, § 3-206, as repealed by Ord. #1583, March 2009)

10-207. [Repealed.] (1982 Code, § 3-207, as repealed by Ord. #1583, March 2009)

10-208. [Repealed.] (1982 Code, § 3-208, as repealed by Ord. #1583, March 2009)

10-209. [Repealed.] (1982 Code, § 3-209, as repealed by Ord. #1583, March 2009)

10-210. [Repealed.] (1982 Code, § 3-211, as repealed by Ord. #1583, March 2009)

10-211. [Repealed.] (1982 Code, § 3-212, as repealed by Ord. #1583, March 2009)

10-212. [Repealed.] (1982 Code, § 3-213, as repealed by Ord. #1583, March 2009)

10-213. [Repealed.] (1982 Code, § 3-214, as repealed by Ord. #1583, March 2009)

10-214. [Repealed.] (1982 Code, § 3-215, as repealed by Ord. #1583, March 2009)

10-215. [Repealed.] (1982 Code, § 3-216, as repealed by Ord. #1583, March 2009)

10-216. [Repealed.] (1982 Code, § 3-217, as repealed by Ord. #1583, March 2009)

10-217. [Repealed.] (1982 Code, § 3-218, as repealed by Ord. #1583, March 2009)

10-218. [Repealed.] (1982 Code, § 3-219, as repealed by Ord. #1583, March 2009)

10-219. [Repealed.] (1982 Code, § 3-220, as repealed by Ord. #1583, March 2009)

CHAPTER 3

PROHIBITED ACTIVITIES

SECTION

- 10-301. Failure to care for animals.
- 10-302. Allowing dogs to roam at large.
- 10-303. Abandonment.
- 10-304. Poisoning.
- 10-305. Cruelty to animals.
- 10-306. Encouraging, watching or betting on animal fighting.
- 10-307. Animals creating nuisance.
- 10-308. Dangerous animals.
- 10-309. Inherently dangerous animals.
- 10-310. Vicious animals.
- 10-311. Animals used for sentry or guard duty.
- 10-312. Luring animals off owner's property.
- 10-313. Interference with traps.
- 10-314. Interference with enforcement of ordinance.
- 10-315. Penalties.
- 10-316. Law enforcement dogs excluded.

10-301. Failure to care for animals. It shall be unlawful for a person owning or having possession, charge, custody or control of an animal to fail to provide the animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, and humane care and treatment. (1982 Code, § 3-301, as replaced by Ord. #1583, March 2009)

10-302. Allowing dogs to roam at large. It shall be unlawful for an owner to knowingly allow a dog to roam at large. The animal control officer is empowered to confiscate and impound any dog found to be at large in accordance with chapter 5 of this title. (1982 Code, § 3-302, as replaced by Ord. #1583, March 2009)

10-303. Abandonment. It shall be unlawful for a person owning or having possession, charge, custody or control of an animal to abandon such animal. (as added by Ord. #1583, March 2009)

10-304. Poisoning. It shall be unlawful for any person to expose any known poisonous substance, whether mixed with food or not, so that the poisonous substance shall be liable to be eaten by a pet. (as added by Ord. #1583, March 2009)

10-305. Cruelty to animals. It shall be unlawful for any person to abuse, molest, torture, torment, deprive of necessary sustenance, beat, mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure such action. The words "torture" and "torment" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful shooting of birds, deer and other game for human food; nor to prohibit an animal's owner, a veterinarian, the director of public works or animal control officer from destroying dangerous, unwanted or injured animals in a humane manner, nor to prohibit the lawful use of animals in scientific research. Violation of this section shall result in a fifty dollar (\$50.00) fine for each offense. (as added by Ord. #1583, March 2009)

10-306. Encouraging, watching or betting on animal fighting. It shall be unlawful for any person to be a spectator at, bet on, or in any way encourage an animal fighting activity. (as added by Ord. #1583, March 2009)

10-307. Animals creating nuisance. (1) It shall be unlawful for any person to own, keep, possess or maintain an animal in such manner so as to constitute a nuisance.

(2) The actions of an animal constitute a nuisance when an animal disturbs the rights of, threatens the safety of, or damages the property of a member of the general public; or interferes with the ordinary use and enjoyment of private or public property. By way of example and not of limitation, the following acts or actions by an owner or possessor of an animal are hereby declared to be a nuisance and are therefore unlawful:

(a) Maintaining an animal that habitually or repeatedly disturbs, interferes with or annoys human beings;

(b) Maintaining an animal that tips over garbage pails or damages garden flowers or vegetables;

(c) Maintaining an animal that creates excessive offensive odor;

(d) Allowing livestock to roam at large;

(e) Failing to confine in a secure enclosure a female pet while in estrus;

(f) Allowing or permitting an animal to bark, whine, howl or yowl in an excessive, continuous or untimely fashion, or to make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises;

(g) Maintaining an animal that chases, snaps at, attacks or otherwise molests or annoys pedestrians, bicyclists, motor vehicle occupants or other livestock or pets;

- (h) Maintaining an animal that habitually or continuously loiters on public places;
 - (i) Maintaining an animal that is diseased and dangerous to the health of the public unless under the care of a licensed veterinarian;
 - (j) Breeding, selling, giving away or allowing to reproduce any animal with a disease contagious to animals or human beings.
- (3) The animal control officer is empowered to confiscate any animal creating a nuisance and impound such animal in accordance with chapter 5 of this title. (as added by Ord. #1583, March 2009)

10-308. Dangerous animals. (1) It shall be unlawful for any person to have, own or harbor a dangerous animal unless the dangerous animal is confined in a secure enclosure.

(2) An owner is on notice that an animal is dangerous if that animal has demonstrated a fierce or dangerous propensity or tendency to do any act, which may endanger persons, property and/or other animals.

(3) The owner of an animal shall notify the animal control department as soon as practicable, but not later than twenty-four (24) hours after notice of the occurrence of any of the following:

- (a) A threat against a human committed by such animal;
- (b) A threat against a pet or livestock while the animal is off the owner's property;
- (c) The destruction of or damage to property of another by such animal; or
- (d) The roaming or escape of any animal required to be confined to a secure enclosure.

(4) The animal control officer has full authority to determine that an animal is dangerous for purposes of this section. Written notice that an animal has been determined to be dangerous shall be given to the owner by the animal control officer.

(5) It shall be unlawful for any person owning or harboring a dangerous animal to fail to have the animal spayed/neutered within thirty (30) days after notice that the animal is dangerous and to provide proof that the animal has been spayed/neutered to the animal control department. If the owner fails to provide such proof that the animal has been spayed/neutered within thirty (30) days, then the animal control officer shall confiscate and humanely dispose of the animal.

(6) If an owner cannot immediately provide a secure enclosure for a dangerous animal, the animal control officer is empowered to confiscate the dangerous animal and harbor it at the owner's expense pending the owner's construction of a secure enclosure. If any dangerous animal is confiscated under this provision, the owner of the dangerous animal shall be given written notice at the time of confiscation that if the owner fails to provide a secure enclosure

upon the expiration of thirty (30) days from confiscation, the animal control department is authorized to humanely dispose of the animal.

(7) If the owner constructs a secure enclosure that is approved by the animal control department, the animal may be redeemed within thirty (30) days from confiscation so long as all fees and costs, as may be set from time to time by city ordinance or resolution, are paid to the animal control department.

(8) The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous animal is on the premises. Said sign shall not exceed one foot by two feet (1' x 2') or two (2) square feet in area and shall be deemed an incidental sign for the purposes of the City of McMinnville Zoning Ordinance.

(9) Any dangerous animal not kept in accordance with the requirements of this section may be confiscated by the animal control officer and impounded in accordance with chapter 5 of this title. (as added by Ord. #1583, March 2009)

10-309. Inherently dangerous animals. (1) It shall be unlawful to have, own, harbor, sell, keep or maintain an inherently dangerous animal.

(2) **Exemptions.** The following shall be exempt from this section:

(a) Any nonprofit institution or exhibitor or dealer which owns or harbors inherently dangerous animals for research, provided that such institution is licensed, including its facility and premises, by the U.S. Departments of Agriculture or Interior.

(b) Traveling fairs, circuses and carnivals, provided that any such fair, circus and/or carnival registers with and obtains approval from the animal control department.

(3) The animal control officer is empowered to confiscate any inherently dangerous animal and impound and dispose of such animal in accordance with chapter 5 of this title. (as added by Ord. #1583, March 2009)

10-310. Vicious animals. (1) It shall be unlawful for any person to have, own, harbor, sell or maintain a vicious animal.

(2) An owner is on notice that an animal is vicious if that animal has attacked or inflicted serious injury on a person or animal without provocation or justification.

(3) The owner of an animal shall notify the animal control department as soon as practicable, but not later than twenty-four (24) hours after notice of the occurrence of any of the following:

(a) An attack against a human committed by such animal;

(b) An attack against a pet or livestock while such animal is off the owner's property;

(c) The roaming or escape of any vicious animal.

(4) The animal control officer has full authority to determine that an animal is vicious for purposes of this section.

(5) A vicious animal shall be immediately confiscated and impounded by the animal control officer. The animal control officer will make reasonable efforts to notify the owner of the confiscation and impoundment of the vicious animal. The animal shall be held for ten (10) days in accordance with chapter 4 of this title. After ten (10) days, unless the owner has obtained a stay from the municipal court, the vicious animal shall be humanely euthanized. (as added by Ord. #1583, March 2009)

10-311. Animals used for sentry or guard duty. (1) It shall be unlawful for any person owning, maintaining or harboring an animal for sentry or guard purposes to fail to register such animal with the animal control department.

(2) A sign warning that there is a guard or sentry animal on the premises shall be displayed. Said sign shall not exceed one foot by two feet (1' x 2') or two (2) square feet in area and shall be deemed an incidental sign for the purposes of the City of McMinnville Zoning Ordinance. (as added by Ord. #1583, March 2009)

10-312. Luring animal off owner's property. It shall be unlawful to entice or lure any animal out of an enclosure or off the property of its owner or keeper. (as added by Ord. #1583, March 2009)

10-313. Interference with traps. It shall be unlawful for any person other than an animal control officer or the officer's designee to remove any animal from a humanely set trap placed by the animal control department or to damage, destroy, move or tamper with such trap. (as added by Ord. #1583, March 2009)

10-314. Interference with enforcement of ordinance. It shall be unlawful for any person to interfere with, hinder or molest the animal control department agents or officers or veterinarians in the performance of any duty authorized by this title. (as added by Ord. #1583, March 2009)

10-315. Penalties. Unless otherwise specified herein, any person who violates any provision of this title shall be fined up to fifty dollars (\$50.00) for each violation. Each day's violation of this section is a separate offense. The owner of a confiscated or impounded animal must also pay all fees and costs incurred as a result of the confiscation or impounded in such amounts as may, from time to time, be established by ordinance or resolution of the board of mayor and aldermen, and in accordance with the provisions of this title. (as added by Ord. #1583, March 2009)

10-316. Law enforcement dogs excluded. Any dog used by a law enforcement agency in the investigation of crimes or as otherwise necessary in

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the enforcement of the law is excluded from requirements of this chapter. (as added by Ord. #1583, March 2009)

CHAPTER 4

RABIES CONTROL

SECTION

- 10-401. Compliance with state law, chapter as supplement to state law.
- 10-402. Inoculation of dogs, cats and other pets.
- 10-403. Inoculation tag and proof of vaccination for dogs and cats.
- 10-404. Evidence of inoculation of cats.
- 10-405. Report and confinement of animals biting persons or showing symptoms of rabies.
- 10-406. Destruction of infected pets, protection of vaccinated pets.
- 10-407. Area-wide emergency quarantine.
- 10-408. Post-mortem diagnosis.
- 10-409. Unlawful killing, releasing, etc. of certain animals.
- 10-410. Failure to surrender animal for quarantine or destruction.

10-401. Compliance with state law, chapter as supplement to state law. (1) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(2) It is the purpose of this chapter to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties by state law. (as added by Ord. #1583, March 2009)

10-402. Inoculation of dogs, cats and other pets. (1) It shall be unlawful for an owner to fail to provide current inoculation against rabies (hydrophobia) for any dog or cat four (4) months of age or older. Should it be deemed necessary by the state public health department that other pets be inoculated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner to fail to provide current inoculation against rabies for that pet.

(2) When a licensed veterinarian administers rabies vaccine to a dog or cat, the dog or cat shall be re-vaccinated one (1) year later and every three (3) years thereafter, if a rabies vaccine licensed by the U.S. Department of Agriculture as a three (3) year vaccine is used. Annual re-vaccination shall be required for all rabies vaccine used other than the U.S. Department of Agriculture three (3) year vaccine. When a certified rabies vaccinator administers rabies vaccine to a dog or cat, the dog or cat shall be re-vaccinated annually. (as added by Ord. #1583, March 2009)

10-403. Inoculation tag and proof of vaccination for dogs and cats. (1) Upon complying with the provision of this chapter, there shall be issued to the owner of the animal inoculated a numbered metallic tag, stamped

with the number and the year of issuance, and indicating the animal has been inoculated against rabies.

(2) It shall be unlawful for any dog owner to fail to provide the dog with a collar to which a current tag issued under this section is securely attached. The collar with attached tag, must be worn at all times, except during grooming, the time the dog is hunting or performing at shows, obedience trials, tracking tests, field trials, schools or other events sanctioned and supervised by a recognized organization.

(3) It shall be unlawful to use for an animal a rabies inoculation tag issued for another animal.

(4) It shall be unlawful for the owner or custodian of a dog or cat to fail to provide written proof that the animal has a current rabies inoculation when the animal control department demands written proof. (as added by Ord. #1583, March 2009)

10-404. Evidence of inoculation of cats. Cats shall not be required to wear the metallic tag referred to in § 10-403 of this chapter, but the owner of a cat shall maintain the rabies vaccination certificates as written evidence to prove that the cat has a current rabies inoculation. (as added by Ord. #1583, March 2009)

10-405. Report and confinement of animals biting persons or showing symptoms of rabies. (1) Every pet which has bitten any person or which shows symptoms of rabies shall be confined immediately and shall be promptly reported to the animal control department, and thereupon shall be securely quarantined, at the direction of the animal control department, for a period of ten (10) days, and shall not be released from such quarantine except by written permission from the animal control department.

(2) It shall be unlawful for any person to fail to report as soon as possible that an animal has bitten a person. It shall be unlawful for any person to fail to inform the animal control department of the whereabouts of an animal that has bitten a person, if the owner or keeper has given the animal away or in any way caused the animal to be taken from the owner's or keeper's premises.

(3) If there is any evidence that an animal bite may have occurred, it shall be assumed by law that a bite did occur and quarantine procedures shall apply if required.

(4) Every pet quarantined under this section shall be confined at the expense of its owner or keeper in a veterinary hospital or at the city animal shelter, if space is available; provided, however, that, if an animal control officer determines that the owner or keeper of a pet which must be quarantined has adequate confinement facilities upon his own premises, the animal control officer may authorize the pet to be confined on such premises upon proof of current vaccination against rabies. If the pet is confined on its owner's or keeper's premises, an animal control officer shall revisit the premises for

inspection purposes on the fifth and tenth day of the confinement period. If the owner or keeper fails to provide continuous quarantine of the pet on his premises as instructed, the animal shall be removed by an animal control officer and quarantined at a veterinary hospital or at the city animal shelter at the owner's cost. The owner or keeper shall agree in writing to the above conditions prior to the animal control officer authorizing confinement on the owner or keeper's property.

(5) In case of stray animals of unknown or reasonably unascertainable ownership, the supervised quarantine required shall be at the city animal shelter or at a licensed veterinary hospital.

(6) In case of stray pets whose ownership is not known and not reasonably ascertainable, the pet may be euthanized and the head examined for rabies or kept for the supervised quarantine period required by this section at the city animal shelter or at a licensed veterinary hospital.

(7) If rabies does not develop within ten (10) days after a pet is quarantined under this section, the pet may be released from quarantine with the written permission of the animal control department and upon payment of any fees, including veterinary fees, and costs, which may, from time to time, be set by ordinance or resolution of the board of mayor and aldermen.

(8) In the case of a carnivore or bat, the animal may be euthanized and the head examined for rabies.

(9) Stray, owner-surrendered, or abandoned animals that have bitten a person shall not be considered adoptable and shall be disposed of as otherwise provided in this chapter. (as added by Ord. #1583, March 2009)

10-406. Destruction of infected pets, protection of vaccinated pets. When the director of public works or his designee reasonably suspects that a pet has been exposed to the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis, the pet shall be considered to have been exposed to rabies. If the pet has a current rabies vaccination and the first vaccination was administered not less than three (3) weeks prior to the exposure, it must be given a booster dose of rabies vaccine within three (3) days (seventy-two (72) hours) of the exposure and may be returned to the owner. If the pet does not have a current rabies vaccination or does not get a booster dose within three (3) days (seventy-two (72) hours) of exposure it shall be destroyed immediately. As an alternative to destruction, the dog or cat may be quarantined at a licensed veterinary hospital or approved boarding kennel for a period of six (6) months. Neither the city animal shelter nor the owner's premises may be used for the purpose of this quarantine. (as added by Ord. #1583, March 2009)

10-407. Area-wide emergency quarantine. (1) When reports indicate a positive diagnosis of rabies, the director of public works may order an area-wide quarantine for such period as he deems necessary. Upon invoking of

said emergency quarantine, no pet shall be taken into the streets or permitted to be in the streets during such period. During such quarantine, no animal may be taken or shipped from the city without written permission of the animal control department, and the police department is hereby directed during such emergency, to impound any pet found running at large in the city. During the quarantine period, the animal control department or local health authorities shall provide for a section of mass immunization by the establishment of temporary emergency rabies vaccination facilities located throughout the city.

(2) In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the director of public works. (as added by Ord. #1583, March 2009)

10-408. Post-mortem diagnosis. (1) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the department of public health for shipment to the state laboratory of public health for rabies diagnosis.

(2) The carcass of any animal suspected of dying of rabies shall be surrendered to the animal control department. The head of such animal shall be submitted to the department of local health for shipment to the state laboratory of public health for rabies diagnosis. (as added by Ord. #1583, March 2009)

10-409. Unlawful killing, releasing, etc. of certain animals. It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies, or any animal biting a human, or to remove such animal from the city without written permission from the animal control department. (as added by Ord. #1583, March 2009)

10-410. Failure to surrender animal for quarantine or destruction. It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required by this chapter or when the animal control department makes demand. (as added by Ord. #1583, March 2009)

CHAPTER 5

IMPOUNDMENT

SECTION

10-501. Generally.

10-502. Notice to owner.

10-503. Redemption by owner generally.

10-504. Destruction or adoption of unredeemed animals generally.

10-505. Procedure for redemption or adoption of unvaccinated pet.

10-506. Suspected rabid animals not to be redeemed or adopted.

10-507. Destruction of wounded or diseased animals.

10-508. Immediate placement for adoption or destruction of animal surrendered by owner.

10-501. Generally. Any animal which appears to be lost, stray or unwanted, or which is not wearing a valid rabies vaccination tag, as required by the state law or this title, and found at large, shall be impounded by the animal control department and confined in an animal shelter. Impoundment of such an animal shall not relieve the owner thereof from any penalty which may be imposed for violation of this title. (as added by Ord. #1583, March 2009)

10-502. Notice to owner. Immediately upon impounding an animal, the animal control department shall make reasonable effort to notify the owner and inform such owner of the conditions whereby the animal may be redeemed. If the owner is unknown or cannot be located, the animal shall be assigned an impoundment identification number and release date. The impoundment identification number and release date shall be posted on the animal's cage or kennel at the animal shelter for a minimum of three (3) business days and any information about the animal, including the time and place of the capture of such animal and the time and date of posting the notice of impoundment, shall be available at the city animal shelter by reference to the impoundment identification number. (as added by Ord. #1583, March 2009)

10-503. Redemption by owner generally. (1) The owner of an animal impounded under this chapter may redeem the animal and regain possession thereof within seventy-two (72) hours or three (3) business days after notice of impoundment is given or posted, as required by § 10-502, by complying with all applicable provisions of this chapter and paying any fines or penalties, and any fees, including veterinary fees, and costs as may be set, from time to time, by ordinance or resolution of the board of mayor and aldermen.

(2) No animal owner may be permitted to adopt his own animal under the provisions of § 10-504 in order to reclaim an animal that has been

impounded pursuant to state law or this title. (as added by Ord. #1583, March 2009)

10-504. Destruction or adoption of unredeemed animals generally. (1) If an impounded animal is not redeemed by the owner within the period prescribed in § 10-503, it may be destroyed in a humane manner or shall become the property of the city animal shelter and offered for adoption. A new adult owner who agrees to comply with this title may acquire an impounded animal; however, any prospective new owner shall not be an animal dealer who acquires animals for resale. The prospective new owner must pay any required fees as may be set by the board of mayor and aldermen. The city will not purposefully release for adoption any animal that is aggressive, dangerous or vicious. Fees may be waived at the discretion of the public works director or designee for rescue groups and other animal welfare groups that apply in writing to the animal control department. The placement of animals with these organizations will be determined on a case-by-case basis.

(2) All unsterilized dogs and cats five (5) months of age or older adopted from the city animal shelter shall be either spayed or neutered within thirty (30) days of their adoption. All animals adopted under five (5) months of age shall be spayed or neutered at six (6) months of age. The adopter shall promptly provide written proof of the sterilization to the animal control department. The adoption of any animal not sterilized pursuant to this section shall be deemed to violate the provision of this section and must be returned by the applicant for re-adoption to the city animal shelter. The animal control department is authorized to obtain an adoption agreement from an applicant to implement the provisions of this section.

(3) The city animal shelter shall require from the adopter a sterilization deposit fee established by the board of mayor and aldermen to insure that sterilization is obtained in addition to the established adoption fee if the animal has not been sterilized prior to its being adopted.

(4) No animal which has been impounded by reason of it being a stray and unclaimed shall be allowed to be adopted from the city animal shelter during a period of emergency rabies quarantine invoked pursuant to chapter 4 of this title except by special authorization of the director of public works.

(5) Any animal that exhibits fierce, aggressive or dangerous behavior will not be offered for adoption. (as added by Ord. #1583, March 2009)

10-505. Procedure for redemption or adoption of unvaccinated pet. (1) Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a pet at the city animal shelter shall have his animal vaccinated for rabies. If the owner or adopter wishes to receive the vaccine for his animal at a veterinary practice of his choice, he will be given a "proof of rabies vaccination card" at the time of the redemption or adoption. This card will be stamped with a date stating the maximum time limit allowed to

take the dog or cat to the veterinarian of such person's choice for rabies vaccination. The time limit for dogs and cats four (4) months and older will be seventy-two (72) hours, with Sundays and holidays excluded. For puppies and kittens under four (4) months, the animal control officer or his designee will determine the time limit according to their age within seventy-two (72) hours of the designated date.

(2) The "proof of rabies vaccination card" will be completed and returned to the animal shelter by the veterinarian. If this card is not returned to the animal shelter within the time limit specified on the card, an animal control officer will be dispatched to retrieve the dog or cat.

(3) The adoption agreement will be completed at the time of the adoption. If the adopter fails to comply with the agreement, an animal control officer may be dispatched to retrieve the pet if corrective action has not been taken by the animal's owner.

(4) Payment for the rabies vaccination provided for in this section will be the responsibility of the person redeeming or adopting the animal. (as added by Ord. #1583, March 2009)

10-506. Suspected rabid animals not to be redeemed or adopted.

Notwithstanding any other provision of this chapter, animals impounded which appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with chapter 4 of this title. (as added by Ord. #1583, March 2009)

10-507. Destruction of wounded or diseased animals.

Notwithstanding any other provision of this chapter, any animal impounded, which is seriously wounded or diseased (not a rabies suspect) and the owner is not known or reasonably ascertainable, shall be destroyed immediately. If the animal has identification, the animal control department shall attempt to notify the owner prior to disposing of such, but if the owner cannot be reached readily, and the animal is suffering, the animal control department may destroy the animal at its discretion in a humane manner. The animal control department has the authority to humanely destroy severely injured livestock upon the owner's request or when the owner is unknown. (as added by Ord. #1583, March 2009)

10-508. Immediate placement for adoption or destruction of animal surrendered by owner. An animal surrendered by its owner to the animal control department may be immediately placed for adoption or humanely destroyed at the discretion of the public works director or designee without compliance with § 10-502 when the owner:

(1) Affirmatively represents in writing that he is the legal owner of said animal;

(2) Agrees to hold the city and its officials and employees harmless from any liability, claims, or damages that may be sustained by reason of the adoption or destruction of said animal; and

(3) Transfers ownership of said animal to the animal control department. (as added by Ord. #1583, March 2009)

CHAPTER 6

BIRD SANCTUARY

SECTION

10-601. Bird sanctuary designated.

10-602. Restrictions.

10-601. Bird sanctuary designated. The entire area embraced within the corporate limits of the City of McMinnville be and is hereby designated as a bird sanctuary. (as added by Ord. #1583, March 2009)

10-602. Restrictions. It shall be unlawful for any person to trap, hunt, shoot or attempt to shoot or molest in any manner, any bird or wild fowl or to rob a bird's nest; provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the City of McMinnville, then in such event, the city may take such action as deemed appropriate. (as added by Ord. #1583, March 2009)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PERSON.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. FIREARMS, WEAPONS AND MISSILES.
5. MISCELLANEOUS.
6. SMOKING IN THE McMINNVILLE CIVIC CENTER.
7. McMINNVILLE CIVIC CENTER WALKING TRAIL.
8. GRAFFITI PROHIBITED.

CHAPTER 1

ALCOHOL²

SECTION

11-101. Drinking beer, etc., on streets, etc.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has an appropriate permit and/or license for on premises consumption. (1982 Code, § 10-216)

¹Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

OFFENSES AGAINST THE PERSON

SECTION

11-201. Assault and battery.

11-201. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery upon another person. (1982 Code, § 10-203)

CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

- 11-301. Disturbing the peace.
- 11-302. Unlawful noises enumerated.
- 11-303. Noise generally.
- 11-304. Disturbing lawful assemblies generally.
- 11-305. Disturbing religious congregations or schools.

11-301. Disturbing the peace. It shall be unlawful for any person to disturb the peace of others by violent, profane, indecent, offensive, or boisterous conduct or language, or by conduct calculated to provoke violence or a violation of the law. (1982 Code, § 10-212)

11-302. Unlawful noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this code, but said enumeration shall not be deemed to be exclusive, namely:

(1) **Horns, signaling devices, etc.** The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle, or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(2) **Radios, phonographs, etc.** The using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or other place in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) **Loudspeakers, amplifiers for advertising.** The using, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public

streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

(4) Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(5) Animals, birds, etc. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity.

(6) Steam or electrical whistles. The blowing of any locomotive steam whistle or 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.

(7) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) Defects in vehicle or load. The use of any automobile, motorcycle, or vehicle so out of repair, or loaded in such manner as to create loud and unnecessary grating, grinding, rattling, or other noise.

(9) Loading and unloading. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(10) Construction or repairing of buildings. The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the recorder, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the recorder 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 within 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, he may grant permission for such work to be done within 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 progress of the work.

(11) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.

(12) Hawkers, peddlers. The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

(13) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale.

(14) Metal rails, pillars, and columns--transportation thereof. The transportation of rails, pillars, or columns of iron, steel, or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(15) Pile drivers, hammers, etc. The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.

(16) Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise. (1982 Code, § 10-206)

11-303. Noise generally. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the city. (1982 Code, § 10-205)

11-304. Disturbing lawful assemblies generally. It shall be unlawful to disturb or disquiet any congregation or lawful assemblage by rude, noisy, or indecent conduct or by unseemly words or gestures. (1982 Code, § 10-214)

11-305. Disturbing religious congregations or schools. It shall be unlawful for any person to disturb or disquiet any congregation or assembly met for religious worship or any school, by indecent or lewd conduct, or by boisterous or profane discourse within or near such place of worship, assembly, or school. (1982 Code, § 10-215)

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

- 11-401. Throwing rocks and other missiles.
- 11-402. Carrying weapons prohibited.
- 11-403. Exemptions.
- 11-404. Carrying knife with blade exceeding four inches.
- 11-405. Selling, disposing of dangerous weapons.
- 11-406. Selling, giving weapons to minor.
- 11-407. Unlawful weapons forfeited.
- 11-408. Disposition of confiscated weapons.
- 11-409. Firing, discharging.

11-401. Throwing rocks and other missiles. It shall be unlawful for any person to throw rocks, bricks, brickbats, snowballs, or any other kind of missiles upon the streets, in the parks, or elsewhere within the corporate limits. (1982 Code, § 10-218)

11-402. Carrying weapons prohibited. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, bowie knife, or other knife of like form, shape, or size, any sword cane, ice pick, sling shot, blackjack, brass knucks, spanish stiletto, or a fountain pen pistol or gun or like instrument containing a firing pin capable of shooting tear gas or pistol cartridges, or any pistol or revolver of any kind whatever, or any other dangerous weapon, except the army or navy pistol which shall be carried openly in the hand. (1982 Code, § 10-232)

11-403. Exemptions. The provisions of § 11-402 shall not apply to any person employed in the army, air force, navy, or marine service of the United States, or to any officer or policeman while bona fide engaged in his official duties, in the execution of process, or while searching for or engaged in arresting criminals, nor to persons who may have been summoned by such officer or policeman in the discharge of his duties, and in arresting criminals and transporting and turning them over to the proper authorities; nor shall said provisions apply to any conductor of any passenger or freight train of any railroad while he is on duty. Persons who may be employed in the army, air force, navy, or marine service, as aforesaid, shall only carry such pistols as are prescribed by the army, air force, and navy regulations. (1982 Code, § 10-233)

11-404. Carrying knife with blade exceeding four inches. It shall be unlawful for any person to carry in any manner whatever, with the intent to

go armed, any pocket knife with a blade exceeding four (4) inches in length. (1982 Code, § 10-234)

11-405. Selling, disposing of dangerous weapons. It shall be unlawful to sell, or offer to sell, or to bring into this city for the purpose of selling, giving away, or otherwise disposing of, any knife or other prohibited weapon mentioned in § 11-402; and the person guilty thereof, for each knife or other prohibited weapon shall be guilty of a misdemeanor; provided, however, sales shall not be unlawful if conducted in accordance with Tennessee Code Annotated, § 39-6-1704. (1982 Code, § 10-235)

11-406. Selling, giving weapons to minor. It shall be unlawful for any person to sell, lend, or give to any minor a pistol, bowie knife, hunter's knife, or like dangerous weapon, except a gun for hunting. (1982 Code, § 10-236)

11-407. Unlawful weapons forfeited. Whenever any person is arrested by any lawful officer of the city, and such person is found to have on his person, or about him in an unlawful manner any unlawful weapon, such as bowie knife, blackjack, knuckles, sling shots, pistols, burglar's tools, or any other weapon or device which is denominated as unlawful under the statutes of this state or provisions of this code, which he is by law prohibited from carrying, such weapon shall become the property of the city. (1982 Code, § 10-237)

11-408. Disposition of confiscated weapons. All weapons confiscated under § 11-407 may be destroyed or otherwise disposed of under the supervision and order of the city judge; but it is expressly provided that in no event shall such weapons be returned to the person arrested, or any of his relatives or friends, and it is further expressly provided that they shall not be sold or offered for sale in any part of the state, except that after a finding of guilty of unlawful possession of such weapon, the city judge may, after the final conclusion of the case, order the same to be sold to business concerns who handle similar items in their normal course of business. (1982 Code, § 10-238)

11-409. Firing, discharging. (1) Prohibited. It shall be unlawful to fire, shoot, or discharge any rifle, pistol, shotgun, other firearm, bow and arrow, spring, air or "BB" gun, or other dangerous weapon without a permit from the chief of police.

(2) Exceptions. The provisions of this section shall not apply to persons employed in the army, air force, navy or marine service of the United States, or to any law enforcement officer engaged in his official duties, in the execution of process, or while searching for or engaged in arresting criminals, nor to persons who may have been summoned by such officer in the discharge of his duties, and in arresting criminals and transporting and turning them over to the proper authorities; nor shall said provisions apply to any conductor of any

passenger or freight train of any railroad while he is on duty. (1982 Code, § 10-239)

CHAPTER 5

MISCELLANEOUS

SECTION

- 11-501. Injuring, damaging, etc., public or private property.
- 11-502. Unauthorized repair, modification or tampering with water metering devices prohibited.
- 11-503. Posting notices, etc.
- 11-504. Curfew for minors.
- 11-505. Curfew for minors on Halloween.
- 11-506. Prostitution and assignation defined.
- 11-507. Engaging in, aiding, abetting prostitution.
- 11-508. Procuring female for prostitution; receiving money from prostitutes.
- 11-509. Open excavations prohibited.
- 11-510. Burial of non-human bodies in city cemeteries.
- 11-511. Smoking in civic auditorium.
- 11-512. Dropping of leaflets from airplanes.
- 11-513. Opening and closing times for Riverfront Park, Rocket Ballfield and Ramsey Park.
- 11-514. Unwanted persons on property.

11-501. Injuring, damaging, etc., public or private property. It shall be unlawful for any person to tear down, destroy, injure, damage, or deface in any manner any shade tree; telephone, telegraph, or electric light pole, wire, or insulator; or any public or private property of any kind. (1982 Code, § 10-201)

11-502. Unauthorized repair, modification or tampering with water metering devices prohibited. It shall be unlawful for any person, plumber or otherwise, except an authorized employee of the city to work on, repair, remove, change, connect or disconnect, replace or otherwise tamper with any water metering device that is the property of the city unless specifically authorized to do so in writing by an authorized official of the McMinnville Water Department. (1982 Code, § 10-202)

11-503. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. It shall be the duty of the chief of police, or any other police officer, forthwith to remove any sign, poster, or other material posted or otherwise located in violation of this section and immediately arrest the offender. (1982 Code, § 10-240)

11-504. Curfew for minors. (1) It shall be unlawful for any person under eighteen (18) years of age to be or remain on any street or other public place within the corporate limits of the city between the hours of 11:00 p.m. and

4:00 a.m., unless accompanied by a parent, guardian, or other person having the legal custody of such minor person, or unless in the performance of an errand or duty directed by such parent, guardian, or other person having the legal custody of such minor person.

(2) It shall be unlawful for any parent, guardian, or person having the legal care and custody of any person under eighteen (18) years of age to allow or permit any such child, ward, or other person under such age, while in his legal custody, to go or be upon any of the streets or other public places in the city in violation of subsection (1).

(3) It shall be unlawful for the operator of any public establishment, or his agent or employee, knowingly to permit any minor to remain upon the premises of such establishment in violation of subsection (1).

(4) No minor person arrested under the provisions of subsection (1) shall be placed in confinement until such child first shall have been taken home to ascertain the parents' wishes, or the wishes of the person having the legal custody and control of such minor, and until such person having the legal custody and control shall have refused to be held responsible for the observance of the provisions of this section by such minor.

(5) It shall be the duty of the city judge, upon the arrest of any child for a violation of this section, where the parents or guardians have refused to become responsible for such minor, to inquire into the facts of the arrest and the conditions and circumstances of such child. If such child, for want of proper parental care or proper care on the part of the person having the legal custody of such child, is growing up in mendicancy or vagrancy, or is incorrigible, the city judge shall cause the proper proceedings to be taken as authorized and provided by law in such cases. (1982 Code, § 10-207)

11-505. Curfew for minors on Halloween. (1) It shall be unlawful for any person under eighteen (18) years of age to be or remain on any street or other public place within the corporate limits of the City of McMinnville on Halloween between the hours of 9:00 p.m. to 12 midnight and from 12:01 a.m. to 4:00 a.m. the following day unless accompanied by a parent, guardian, or other person having the legal custody of such minor person, or unless in the performance of an errand or duty directed by such parent, guardian, or other person having the legal custody of such minor person.

(2) It shall be unlawful for any parent, guardian, or person having the legal care and custody of any person under eighteen (18) years of age to allow or permit any such child, ward, or other person under such age, while in his legal custody, to go or be upon any of the streets or other public places in the city in violation of subsection (1).

(3) It shall be unlawful for the operator of any public establishment, or his agent or employee, knowingly to permit any minor to remain upon the premises of such establishment in violation of subsection (1).

(4) No minor person arrested under the provisions of subsection (1) shall be placed in confinement until such child first shall have been taken home to ascertain the parents' wishes, or the wishes of the person having the legal custody and control of such minor, and until such person having the legal custody and control shall have refused to be held responsible for the observance of the provisions of this section by such minor.

(5) It shall be the duty of the city judge, upon the arrest of any child for a violation of this section, where the parents or guardians have refused to become responsible for such minor, to inquire into the facts of the arrest and the conditions and circumstances of such child. If such child, for want of proper parental care or proper care on the part of the person having the legal custody of such child, is growing up in mendicancy or vagrancy, or is incorrigible, the city judge shall cause the proper proceedings to be taken as authorized and provided by law in such cases.

(6) This section is applicable only on Halloween and until 4:00 a.m the day following Halloween of each and every year, and nothing herein shall be construed as revoking, repealing, amending, or in any way affecting § 11-504 of the Municipal Code for the City of McMinnville. (1982 Code, § 10-207A)

11-506. Prostitution and assignation defined. As used in §§ 11-507 and 11-508, the following words and terms shall have the following meanings:

(1) "Assignation" shall be construed to include the making of any appointment or engagement for prostitution or any act in furtherance of such appointment or engagement.

(2) "Prostitution" shall be construed to include the giving or receiving of the body for sexual intercourse for hire or for licentious sexual intercourse without hire. (1982 Code, § 10-208)

11-507. Engaging in, aiding, abetting prostitution. It shall be unlawful to engage in, or knowingly to aid or abet prostitution or assignation or to procure or solicit or to reside in, enter, or remain in any vehicle, trailer, conveyance, place, structure, or building for the purpose of prostitution or assignation. It shall be unlawful to keep or set up a house of ill fame, brothel, or bawdy house, or to receive or direct any person for purposes of prostitution or assignation into any vehicle, trailer, conveyance, place, structure, or building, or to permit any person to remain for the purpose of prostitution or assignation in any vehicle, trailer, conveyance, place, structure, or building. It shall also be unlawful to direct, take, or transport, or to offer or agree to take or transport, or to aid or assist in transporting or directing any person to any vehicle, conveyance, trailer, place, structure, or building, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution or assignation. It shall be unlawful to lease or rent or contract to lease or rent any vehicle, trailer, conveyance, place, structure, or building, or part thereof, believing that it is

intended to be used for any of the purposes herein prohibited, or knowingly to aid, abet, or participate in the doing of any of the acts herein prohibited. (1982 Code, § 10-209)

11-508. Procuring female for prostitution; receiving money from prostitutes. It shall be unlawful to procure a female inmate for a house of prostitution, or to cause, induce, persuade, or encourage by promise, threat, violence, or by any scheme or device, a female to become a prostitute or to remain in or become an inmate of a house of prostitution. It shall be unlawful to receive or give, or agree to receive or give any money or thing of value for procuring or attempting to procure any female to become a prostitute or an inmate of a house of prostitution, or knowingly to accept, receive, levy, or appropriate any money or other thing of value without consideration from a prostitute or from the proceeds of any woman engaged in prostitution. It shall also be unlawful knowingly to aid, abet, or participate in the doing of any of the acts herein prohibited. (1982 Code, § 10-210)

11-509. Open excavations prohibited. It shall be unlawful for any person to allow any well or cistern or other excavation located on property under his control to remain open or uncovered so as to endanger the lives or limbs of citizens. (1982 Code, § 10-219)

11-510. Burial of non-human bodies in city cemeteries. It shall be unlawful for any person to bury any body other than that of a human being in any of the cemeteries over which the city or a duly appointed cemetery board for the city has the supervision and control. (1982 Code, § 10-220)

11-511. Smoking in civic auditorium. It shall be unlawful to smoke or carry lighted tobacco or other such smokable substance in any form in any area in the McMinnville Civic Auditorium, where signs have been placed prohibiting smoking. There shall be ash trays or other fire proof containers at the entrance of such places for disposal of such lighted tobacco.

In addition to the penalty provided in the general penalty clause of this code, any person violating the smoking prohibition of this section may be evicted from the civic auditorium. (1982 Code, § 10-221)

11-512. Dropping of leaflets from airplanes. It shall be unlawful for any firm, person, or corporation to permit or cause to be dropped from an airplane any form of leaflets or tracts, and the appearance of a firm, personal, or corporate name thereon shall be prima facie evidence that such firm, person, or corporation permitted or caused same to be dropped. (1982 Code, § 10-241)

11-513. Opening and closing times for Riverfront Park, Rocket Ballfield and Ramsey Park. (1) Riverfront Park hours. Riverfront Park shall

be closed for public use and to public use on Monday from 10:00 p.m. until 6:00 a.m. Tuesday, Tuesday from 10:00 p.m. until 6:00 a.m. Wednesday, Wednesday from 10:00 p.m. until 6:00 a.m. Thursday, Thursday from 10:00 p.m. until 6:00 a.m. Friday, Friday from 10:00 p.m. until 6:00 a.m. Saturday, Saturday from 11:00 p.m. until 6:00 a.m. Sunday, Sunday from 11:00 p.m. until 6:00 a.m. Monday, provided, however, fishing is allowed at any time.

(2) Rocket Ballfield hours. Rocket Ballfield shall be closed for public use and to public use on Monday from 9:00 p.m. until 6:00 a.m. Tuesday, Tuesday from 9:00 p.m. until 6:00 a.m. Wednesday, Wednesday from 9:00 p.m. until 6:00 a.m. Thursday, Thursday from 9:00 p.m. until 6:00 a.m. Friday, Friday from 9:00 p.m. until 6:00 a.m. Saturday, Saturday from 11:00 p.m. until 6:00 a.m. Sunday and Sunday from 11:00 p.m. until 6:00 a.m. Monday.

(3) Ramsey Park hours. Ramsey Park shall be closed for public use and to public use on Monday from 9:00 p.m. until 6:00 a.m. Tuesday, Tuesday from 9:00 p.m. until 6:00 a.m. Wednesday, Wednesday from 9:00 p.m. until 6:00 a.m. Thursday, Thursday from 9:00 p.m. until 6:00 a.m. Friday, Friday from 9:00 p.m. until 6:00 a.m. Saturday, Saturday from 10:00 p.m. until 6:00 a.m. Sunday and Sunday from 10:00 p.m. until 6:00 a.m. Monday.

(4) Other times of closing. The Department of Parks and Recreation of the City of McMinnville, Tennessee, may close Riverfront Park, Rocket Ballfield or Ramsey Park at such other time or times as the administrator, the superintendent of parks and recreation, or the chairman of the parks and recreation committee shall deem expedient, advisable, or necessary.

(5) Special events. The superintendent of parks and recreation is authorized and empowered for special events to permit an earlier opening time or a later closing time at either the Riverfront Park, the Rocket Ballfield or Ramsey Park and shall notify the police department whenever expediently possible of the change in time and the duration of the change.

(6) Closing times to be posted. Closing times shall be posted at a conspicuous place at the Riverfront Park site and also at the Rocket Ballfield site showing the normal hours of opening and closing. Emergency closings under section 20-604 above shall be made known to the public by posting of a sign at a conspicuous place at Riverfront Park, Rocket Ballfield or Ramsey Park.

(7) Violation and penalty. Anyone other than city personnel or persons authorized by the mayor, city administrator or city department head going upon the premises in violation of the closing times contained in this chapter shall upon conviction be fined not less than \$2.00 nor more than \$50.00. (1982 Code, § 10-242, as replaced by Ord. #1220, § 7, Oct. 1996)

11-514. Unwanted persons on property. (1) It shall be unlawful for any person to intentionally enter or remain upon the land or premises of another person after receiving notice from the owner or rightful occupant that such entry or presence is forbidden.

(2) Penalties. Any person violating any of the provisions of this section shall, upon conviction thereof, be fined in an amount not to exceed fifty dollars (\$50.00) for each offense. (as added by Ord. #1531, Nov. 2006)

CHAPTER 6

SMOKING IN THE McMINNVILLE CIVIC CENTER

SECTION

11-601. Smoking and use of tobacco products prohibited.

11-602. Smoking during special events.

11-603. Signs to be displayed.

11-604. Violations.

11-605. Severability.

11-601. Smoking and use of tobacco products prohibited.

(1) Smoking and the use of other tobacco products in any form shall be prohibited in the McMinnville Civic Center building, within the fenced area of the Gilley Pool during the normal operational hours of the civic center and Gilley Pool in which it is open to the public and within the bleachers of any of the city's ball fields.

(2) The director of parks and recreation shall have the authority to designate specific tobacco use and non-tobacco use areas within the McMinnville Civic Center during special events provided that the entire civic center building is being leased or such areas which are not leased are closed to the general public.

(3) Appropriate signs shall be displayed in conspicuous locations within the areas of the civic center, within the fenced area of the Gilley Pool, and near the bleachers of the city's ball fields, notifying the occupants of the designated tobacco use and/or non-tobacco use areas within the civic center, Gilley Pool, and city's ballfields. No person shall willfully mutilate or destroy any sign required by this section.

(4) Any person found in violation of the prohibitions contained in the ordinance comprising this section shall be fined not more than fifty dollars (\$50.00) plus court cost. Each occurrence shall constitute a separate offense. (Ord. #1114, § 1, May 1994, as replaced by Ord. #1548, Dec. 2007)

11-602. Smoking during special events. The director of parks and recreation shall have the authority to designate specific smoking and nonsmoking areas within the McMinnville Civic Center during special events provided that the entire Civic Center building is being leased or such areas which are not leased are closed to the general public. (Ord. #1114, § 2, May 1994)

11-603. Signs to be displayed. Appropriate signs shall be displayed in conspicuous locations within the areas of the Civic Center notifying the occupants of the designated smoking and/or nonsmoking areas within the Civic

Center. No person shall willfully mutilate or destroy any sign required by this section. (Ord. #1114, § 3, May 1994)

11-604. Violations. Any person found in violation of the prohibitions contained in this chapter shall be fined not more than fifty dollars (\$50.00) plus court cost. Each occurrence shall constitute a separate offense. (Ord. #1114, § 4, May 1994)

11-605. Severability. If any section, subsection, paragraph, sentence, item or clause of this chapter shall for any reason be declared unconstitutional or invalid, such declaration shall not affect any other portion of this chapter, it being the intent that the sections, subsections, paragraphs, sentences, items or clauses of this chapter shall be treated as severable. (Ord. #1114, § 5, May 1994)

CHAPTER 7

McMINNVILLE CIVIC CENTER WALKING TRAIL

SECTION

11-701. Establishment of the walking trail.

11-701. Establishment of the walking trail. (1) There is hereby established by the City of McMinnville a trail as described in the preamble of Ord. #1398,¹ which shall be used primarily for walkers and shall be known as the McMinnville Civic Center Walking Trail.

(2) The following rules and regulations shall govern when the walking trail may be used, the purposes for which the walking trail may or may not be used, and the method by which the rules and regulations may be amended:

(a) The walking trail will be open to public use for walking 24 hours a day, seven days a week, unless notice is published of its being temporarily closed by the director of parks and recreation, the mayor, the city administrator, or the chairman of the parks and recreation committee.

(b) Skateboards, motorized vehicles, bicycles, or any other type of carriage or vehicle propelled in any manner other than by a human being will not be permitted on the walking trail except at a designated crossing, however, a handicapped person using an electric powered wheelchair will be permitted. Alcohol, drugs, and firearms will not be allowed on the walking trail.

(c) Courtesy and respect for others, regardless of their mode of speed, skill level, or travel shall be exercised.

(d) Persons traveling clockwise on the walking trail shall walk on the inside of the walking trail, and those traveling counterclockwise shall stay on the outside of the walking trail except to pass one traveling in the same direction, and this must be done after looking both ways before passing so as not to run into or interfere with oncoming traffic.

(e) When traveling in groups, common sense and courtesy must be used so as not to interfere with the oncoming traffic.

(f) The walking trail should not be blocked by any person or group, and no objects are to be placed on the walking trail without the written permission of the city official in charge of the walking trail.

(g) Any person using roller blades or skates shall maintain safe speeds at all times.

¹Ord. #1389, Sept. 2001 is of record in the office of the city recorder.

(h) Persons walking with pets must have them on leash at all times and under their control and must clean up an litter caused by the pets.

(i) Only walkers or joggers may use the walking trail between sundown and sunup and must be equipped with and use proper lights.

(j) These rules and regulations contained in this chapter shall remain in full force and effect until altered or amended by the parks and recreation committee at a regular meeting of that committee or by the board of mayor and aldermen at any regular meeting of the board of mayor and aldermen or any special meeting called for the purpose of amending this chapter.

(k) The parks and recreation committee is authorized and empowered to alter, amend, change, modify, or revoke any of the rules and regulations and shall have proper notice placed at strategic points on the walking trail setting out the rules and regulations.

(3) Anyone violating any of the rules and regulations heretofore set out or hereinafter adopted by the Parks and Recreation Committee or the Board of Mayor and Aldermen of the City of McMinnville, Tennessee, shall upon conviction be assessed a fine and/or civil penalty in a sum of from \$2.00 to \$50.00 and may be barred from the use of the walking trail. (as added by Ord. #1398, Sept. 2001)

CHAPTER 8

GRAFFITI PROHIBITED

SECTION

11-801. Purpose.

11-802. Definitions.

11-803. Prohibited acts.

11-804. Removal of graffiti by perpetrator.

11-805. Removal of graffiti by property owner or city.

11-806. Penalties.

11-801. Purpose. The purpose of this chapter is to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property, and to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. (as added by Ord. #1589, April 2009)

11-802. Definitions. The following definitions shall apply to the interpretation and enforcement of this chapter:

(1) "Graffiti." Any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property or despite advance authorization, is otherwise deemed a public nuisance by the City of McMinnville.

(2) "Graffiti implement." An aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.

(3) "Person." Any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity. (as added by Ord. #1589, April 2009)

11-803. Prohibited acts. It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any city-owned or non-city owned property without the permission of the owner or occupant. (as added by Ord. #1589, April 2009)

11-804. Removal of graffiti by perpetrator. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within seventy-two (72) hours after notice by the city or private owner of the property involved. Such removal shall be done in a manner prescribed by the

chief of police, or the director of public works, or any additional city department head, as authorized by the board of mayor and aldermen. (as added by Ord. #1589, April 2009)

11-805. Removal of graffiti by property owner or city. If the graffiti is not removed by the perpetrator as outlined above, graffiti shall be removed pursuant to the following provisions:

(1) **Property owner responsibility.** It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the city to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:

(a) The street address and legal description of the property sufficient for identification of the property;

(b) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;

(c) A statement that the graffiti must be removed within ten (10) days after receipt of the notice.

(2) **Right of city to remove.** Whenever the city becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from any park, greenway, playground, swimming pool, recreational facility, or other public building or structure, the city shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the city administrator, or the designee of the city administration, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area. (as added by Ord. #1589, April 2009)

11-806. Penalties. Any person violating this chapter shall be punished by a fine of fifty dollars (\$50.00) for each offense. (as added by Ord. #1589, April 2009)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. PROPERTY MAINTENANCE CODE.
6. ENERGY CONSERVATION CODE.
7. EXCAVATION AND GRADING CODE.
8. SWIMMING POOL CODE.
9. UNSAFE BUILDING ABATEMENT CODE.
10. MECHANICAL CODE.
11. EXISTING BUILDING CODE.
12. ONE AND TWO FAMILY DWELLING CODE.
13. LIFE SAFETY CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
12-102. Modifications.
12-103. Available in recorder's office.
12-104. Violations.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of securing the safety, health and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Building Code,² 2009 edition, and the following appendixes A, B,

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the
(continued...)

C, D, E, F, G, H, I, J and K, as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the International Building Code, 2009 edition. (1982 Code, § 4-101, replaced by Ord. 1087, Dec. 1993, Ord. #1195, April 1996, Ord. #1294, July 1998, and Ord. #1392, July 2001, amended by Ord. #1480, March 2005, and replaced by Ord. #1612, July 2010)

12-102. Modifications. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the building code. Section 107 of the building code is hereby deleted. (1982 Code, § 4-102)

12-103. Available in recorder's office. Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated, one (1) copy of the standard building code 1999 edition has been placed on file in the recorder's office and shall be kept there for use and inspection by the public, during regular working days and hours. (1982 Code, § 4-103, as replaced by Ord. #1195, April 1996, and Ord. #1392, July 2001)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1982 Code, § 4-104)

²(...continued)

International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. International Plumbing Code adopted.
- 12-202. Modifications.
- 12-203. Use of plastic pipe for potable water supply.
- 12-204. Use of cement asbestos pipe.
- 12-205. Available in recorder's office.
- 12-206. Violations.
- 12-207. Repeal of conflicting provisions.
- 12-208. Severability.

12-201. International Plumbing Code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of securing the safety, health and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Plumbing Code,² 2009 edition, and the following appendixes A, B, C, D, E, F, and G, as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Plumbing Code, 2009 edition. (1982 Code, § 4-201, amended by Ord. #1088, Oct. 1993; Ord. #1196, April 1996; replaced by Ord. #1295, July 1998; amended by Ord. #1485, March 2005, and replaced by Ord. #1613, July 2010)

12-202. Modifications. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

enforce the provisions of the plumbing code. Section 107 of the plumbing code is hereby deleted. The plumbing code is further amended to prohibit the use of pipe made of plastic materials in any building, structure, or system connected to the McMinnville waste water system with the exceptions only as hereinafter provided:

(1) Only schedule 40 PVC type pipe or equivalent is permitted and only in waste water collection systems subject to restrictions as provided in 2, 3, and 4 below.

(2) Trunk lines from the city tap to and within the building, structure, or system. Trunk lines will be a minimum of 4" ID.

(3) Each facility which includes a commode will be served by a branch line of 3" ID minimum with branch line connected directly to the trunk line. No branch will serve more than one commode.

(4) Vent pipes will be a minimum of 3" ID where 2 or fewer commodes are served. Where 3 or more commodes are served, the vent pipe will be a minimum of 4" ID. (1982 Code, § 4-202)

12-203. Use of plastic pipe for potable water supply. Any individual, firm, corporation, or subdivider desiring to use plastic pipe in the use and construction of water lines to any destination within the corporate limits of the city or across the corporate limits into the county, or within the area governed by the McMinnville Regional Planning Commission, may do so, provided such plastic pipe water line is approved by and meets or exceeds the minimum standards as prescribed by the McMinnville Regional Planning Commission. Failure to comply with this section shall be a misdemeanor. (1982 Code, § 4-203)

12-204. Use of cement asbestos pipe. Any individual, firm, corporation, or subdivider desiring to use cement asbestos materials in the use and construction of water lines to any destination within the corporate limits of the city may do so, provided such cement asbestos waterline is approved by and meets or exceeds the minimum standards as prescribed by the McMinnville Regional Planning Commission. Failure to comply with this section shall be a misdemeanor. (1982 Code, § 4-204)

12-205. Available in recorder's office. Pursuant to the requirements of § 6-54-502, Tennessee Code Annotated, one (1) copy of the standard plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection by the public, during regular working days and hours. (1982 Code, § 4-205, as replaced by Ord. 1196, § 2, April 1996)

12-206. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1982 Code, § 4-206)

12-207. Repeal of conflicting provisions. All ordinances in conflict herewith are hereby repealed in their entirety, to the extent of any conflicts. (as added by Ord. #1196, § 3, April 1996)

12-208. Severability. If any section, subsection, paragraph, sentence, item or clause of this chapter shall for any reason be declared unconstitutional or invalid, such declaration shall not affect any other portion of this chapter, it being the intent that the sections, subsections, paragraphs, sentences, items or clauses of this chapter shall be treated as severable. (as added by Ord. #1196, § 4, April 1996)

CHAPTER 3

ELECTRICAL CODE¹

SECTION

12-301. Electrical code adopted.

12-302. Available in recorder's office.

12-303. Violations.

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,² 1993 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1982 Code, § 4-601, modified)

12-302. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1982 Code, § 4-602)

12-303. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1982 Code, § 4-603)

¹Municipal code references

Fire protection, fireworks and explosives: title 7.

²Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

CHAPTER 4**GAS CODE¹****SECTION**

12-401. Fuel gas code adopted.

12-402. Modifications.

12-403. Available in recorder's office.

12-404. Violations.

12-401. Fuel gas code adopted. Pursuant to authority granted by §§ 6-54-501 through 6-54-506 of the Tennessee Code Annotated and for the purpose of securing the safety, health and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such. The International Fuel Gas Code,² 2003 edition, and the following appendixes A, B, C, and D, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Fuel Gas Code. (1982 Code, § 4-801, amended by Ord. #1092, Oct. 1993; Ord. #1197, April 1996; replaced by Ord. #1296, July 1998; and amended by Ord. #1482, March 2005)

12-402. Modifications. Whenever the gas code refers to the "administrative authority", it shall be deemed to be a reference to the board of mayor and aldermen. Where ever "gas inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the gas code. Section 107 of the gas code is hereby deleted. (1982 Code, § 4-802)

12-403. Available in recorder's office. Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated, one (1) copy of the gas code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public, during regular working days and hours. (1982 Code, § 4-803, as amended by Ord. #1197, § 2, April 1996)

¹Municipal code reference

Gas system administration: title 19, chapter 1.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-404. Violations. It shall be unlawful for any person to violate or fail to comply with any provisions of the gas code as herein adopted by reference and modified. (1982 Code, § 4-804)

CHAPTER 5**PROPERTY MAINTENANCE CODE****SECTION**

12-501. International Property Maintenance Code adopted.

12-502. Modifications.

12-503. Available in recorder's office.

12-504. Violations.

12-501. International Property Maintenance Code adopted.

Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of securing the safety, health and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Property Maintenance Code,¹ 2009 edition, and the following appendix A as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Property Maintenance Code, 2009 edition. (1982 Code, § 4-401, amended by Ord. #1090, Oct. 1993; and Ord. #1198, April 1996; replaced by Ord. #1297, July 1998; amended by Ord. #1483, March 2005, and replaced by Ord. #1619, July 2010)

12-502. Modifications. (1) Wherever the housing code refers to the "Housing Official" it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the housing code. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Applicable Governing Body" is referred to, it shall mean the board of mayor and aldermen. Section 108 of the housing code is deleted.

(2) The following sections are hereby revised:

Section 101.1	The City of McMinnville
Section 112.4	One dollar nor more than \$50.00 for each day the violation Exist.
Section 302.4	12 Inches
Section 304.14	May 1 to October 30
Section 602.3	October 1 to April 30
Section 602.4	May 1 to September 30

(1982 Code, § 4-402, as amended by Ord. #1619, July 2010)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-503. Available in recorder's office. Pursuant to the requirements of § 6-54-502, of the Tennessee Code Annotated, one (1) copy of the standard housing code has been placed on file in the recorder's office and shall be kept there for the use and inspection by the public, during regular working days and hours. (1982 Code, § 4-403, as amended by Ord. #1198, § 2, April 1996)

12-504. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1982 Code, § 4-404)

CHAPTER 6**ENERGY CONSERVATION CODE**¹**SECTION**

12-601. International Energy Conservation Code adopted.

12-602. Modifications.

12-603. Available in recorder's office.

12-604. Violation and penalty.

12-601. International Energy Conservation Code adopted.

Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of securing the safety, health and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Energy Conservation Code,² 2009 edition, as prepared and adopted by International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Energy Conservation Code, 2009 edition. (as replaced by Ord. #1615, July 2010)

12-602. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of McMinnville. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

12-603. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has

¹State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-604. Violation and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 7

EXCAVATION AND GRADING CODE¹

SECTION

12-701. Excavation and grading code adopted.

12-702. Modifications.

12-703. Available in recorder's office.

12-704. Violations.

12-701. Excavation and grading code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-516, and for the purpose of setting forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments; establishing the administrative procedure for issuance of permits; and providing for approval of plans and inspection of grading construction as set forth herein, the Standard Excavation and Grading Code², 1985 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the excavation and grading code. (1982 Code, § 4-1001, modified)

12-702. Modifications. Whenever "Building Official" is named or referred to it shall mean the person appointed or designated by the board of mayor and aldermen as codes enforcement official. (1982 Code, § 4-1002)

12-703. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502 one (1) copy of the standard excavation and grading code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1982 Code, § 4-1003)

12-704. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the standard excavation and grading code as herein adopted by reference. (1982 Code, § 4-1004)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 8

SWIMMING POOL CODE¹

SECTION

12-801. Standard swimming pool code.

12-802. Modifications.

12-803. Available in recorder's office.

12-804. Violations.

12-801. Standard swimming pool code. Pursuant to authority granted by §§ 6-54-502 through 6-54-506 of the Tennessee Code Annotated, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure of any appurtenance connected or attached to any building or structure. The Standard Swimming Pool Code,² 1997 edition, as prepared and adopted by the Southern Building Code Congress International, Inc., are hereby adopted and incorporated by reference as a part of the 1995 municipal code, and is hereinafter referred to as the Standard Swimming Pool Code. (1982 Code, § 4-1101, as amended by Ord. #1093, Oct. 1993, modified, and replaced by Ord. #1199, § 1, April 1996, and replaced by Ord. #1298, July 1998)

12-802. Modifications. Whenever "Building Official" is named or referred to it shall mean the person appointed or designated by the board of mayor and aldermen as codes enforcement official. (1982 Code, § 4-1102, as replaced by Ord. #1199, § 1, April 1996)

12-803. Available in recorder's office. Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated one (1) copy of the standard swimming pool code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public, during regular working days and hours. (1982 Code, § 4-1103, as replaced by Ord. #1199, § 1, April 1996)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

12-804. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the standard swimming pool code as herein adopted by reference. (1982 Code, § 4-1104, as replaced by Ord. #1199, § 1, April 1996)

CHAPTER 9

UNSAFE BUILDING ABATEMENT CODE

SECTION

12-901. Unsafe building abatement code adopted.

12-902. Modifications.

12-903. Available in recorder's office.

12-904. Violations.

12-901. Unsafe building abatement code adopted. Pursuant to authority granted by Tennessee Code Annotated §§ 6-54-501 through 6-54-506 and for the purpose of elimination or repair of unsafe buildings, the Standard Unsafe Building Abatement Code¹, 1985 edition as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the unsafe building abatement code. (1982 Code, § 4-901)

12-902. Modifications. Chapter 1, section 105.1 is hereby amended deleting therefrom the last sentence in its entirety as reads "The composition of the board shall be one engineer, one architect, and three members at large from the construction industry." (1982 Code, § 4-902)

12-903. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502 one (1) copy of the unsafe building abatement code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1982 Code, § 4-903, modified)

12-904. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the unsafe building abatement code as herein adopted by reference and modified. (1982 Code, § 4-904)

¹Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 10**MECHANICAL CODE**¹**SECTION**

12-1001. International Mechanical Code adopted.

12-1002. Modifications.

12-1003. Available in recorder's office.

12-1004. Violations.

12-1001. International Mechanical Code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the fabrication, erection, construction, enlargement, alteration, repair, location of detached one- and two-family dwellings, structure and their appurtenances, and accessory structures; the International Mechanical Code,² 2009 edition, and Appendixes A and B, as prepared and adopted by International Code Council, are hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Mechanical Code, 2009 edition. (1982 Code, § 4-301, amended by Ord. #1089, Oct. 1993, and Ord. #1200, April 1996; replaced by Ord. #1299, July 1998, amended by Ord. #1481, March 2005, and replaced by Ord. #1616, July 2010)

12-1002. Modifications. Whenever the mechanical code refers to the "Chief Appointing Authority," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Mechanical Official" is named, it shall, for the purposes of the mechanical code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the mechanical code. Section 107 of the mechanical code is hereby deleted. (1982 Code, § 4-302)

12-1003. Available in recorder's office. Pursuant to the requirements of § 6-54-502 of the Tennessee Code Annotated one (1) copy of the standard mechanical code has been placed on file in the city recorder's office and shall be

¹Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

kept there for the use and inspection of the public, during normal working hours. (1982 Code, § 4-303, as amended by Ord. #1200, § 2, April 1996)

12-1004. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified. (1982 Code, § 4-304)

CHAPTER 11**EXISTING BUILDING CODE**¹**SECTION**

12-1101. Existing building code adopted.

12-1102. Modifications.

12-1103. Available in recorder's office.

12-1104. Violations.

12-1101. Existing building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of securing the safety, health and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the International Existing Building Code,² 2009 edition, and the following appendixes A and B as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the International Existing Building Code, 2009 edition. (1982 Code, § 4-1201, modified, as amended by Ord. #1484, March 2005, and replaced by Ord. #1617, July 2010)

12-1102. Modifications. Whenever "building official" is named or referred to it shall mean the person appointed or designated by the board of mayor and aldermen as codes enforcement official. (1982 Code, § 4-1202)

12-1103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502, one (1) copy of the standard existing buildings code shall be placed on file in the office of the recorder and the same shall be kept there for the use and inspection of the public. (1982 Code, § 4-1203)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-1104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the standard existing buildings code as herein adopted by reference. (1982 Code, § 4-1204)

CHAPTER 12

ONE- AND TWO-FAMILY DWELLING CODE

SECTION

12-1201. One- and two-family dwelling code adopted.

12-1202. Modifications.

12-1203. Available in recorder's office.

12-1204. Violations.

12-1201. One- and two-family dwelling code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the fabrication, erection, construction, enlargement, alteration, repair, location of detached one and two family dwellings and their appurtenances, and accessory structures, the International Residential Code for One- and Two-Family Dwellings,¹ 2009 edition and the following appendixes A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P and Q, as prepared and adopted by International Code Council, are hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the International Residential Code for One- and Two-Family Dwellings, 2009 edition. (1982 Code, § 4-701, amended by Ord. #1091, Oct. 1993, replaced by Ord. #1300, July 1998, and Ord. #1402, Oct. 2001; amended by Ord. #1487, March 2005, and replaced by Ord. #1618, July 2010)

12-1202. Modifications. (1) Whenever the words "Building Official" are used in the dwelling code, they shall refer to the person designated by the board of mayor and aldermen to enforce the dwelling code. Section R-106 of the dwelling code is hereby deleted.

(2) Chapter 29 entitled Dwelling Unit Fire Sprinkler Systems, section P 2904 of the International Residential Code for One- and Two-Family Dwellings is hereby deleted from this adoption. (1982 Code, § 4-702, as amended by Ord. #1618, July 2010)

12-1203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the dwelling code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1982 Code, § 4-703)

¹-Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-1204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the dwelling code as herein adopted by reference and modified. (1982 Code, § 4-704)

CHAPTER 13**LIFE SAFETY CODE****SECTION**

12-1301. Life safety code adopted.

12-1302. Available in recorder's office.

12-1301. Life safety code adopted. Pursuant to authority granted by § 6-54-502, of the Tennessee Code Annotated and for the purpose of regulating exits, egress capacity, stairways, fire escapes, travel distance to egress, special locking arrangements in place of assembly occupancies, in any building or structure. The Life Safety Code, 2000 edition, and the following Appendixes A & B, as prepared and adopted by the National Fire Protection Association, is hereby adopted and incorporated by reference as part of this code, and is hereinafter referred to as the Life Safety Code. Said Life Safety Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1982 Code, § 7-401, modified, as replaced by Ord. #1210, Aug. 1996, amended by Ord. #1301, July 1998, and replaced by Ord. #1391, July 2001)

12-1302. Available in recorder's office. Pursuant to the requirements of § 6-54-502, of the Tennessee Code Annotated, one (1) copy of the Life Safety Code 2000 edition, has been placed in the recorder's office and shall be kept there for public use, inspection, and examination. (1982 Code, § 7-402, as replaced by Ord. #1210, Aug. 1996, and Ord. #1391, July 2001)

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

1. MISCELLANEOUS.
2. JUNKYARDS.
3. STRUCTURES UNFIT FOR OCCUPATION OR USE.
4. OPEN STORAGE OF REFUSE, JUNK, ABANDONED MOTOR VEHICLES AND RUBBISH.

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

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Dead animals.
- 13-105. Health and sanitation nuisances.
- 13-106. Littering around or damaging garbage bins.
- 13-107. Weeds, etc.--height limits; failure to cut or destroy.
- 13-108. Weeds, etc.--notice to cut or destroy.
- 13-109. Weeds, etc.--cutting or destruction by city.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the municipality. (1982 Code, § 8-101)

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. (1982 Code, § 8-105)

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-105.

Toilet facilities in beer places: § 8-211.

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 to effectively prevent the breeding of mosquitoes. (1982 Code, § 8-106)

13-104. 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. (1982 Code, § 8-107)

13-105. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1982 Code, § 8-108)

13-106. Littering around or damaging garbage bins. It shall be unlawful for any person to scatter litter around or to damage any city garbage bin. Litter means the throwing or piling of any useless or rejected matter on public or private property with intent to leave the same. Damage means the denting, burning, or in any way defacing a garbage bin. (1982 Code, § 8-104)

13-107. Weeds, etc.--height limits; failure to cut or destroy.

(1) It shall be unlawful for any person owning, leasing, occupying, or having control of property in the city, regardless of whether such property is vacant or contains any form of structure, to permit or suffer the growth upon such property of weeds, grass, brush, or other rank or noxious vegetation to a height greater than twelve (12) inches, when such growth is within two hundred (200) feet of occupied residential or commercial property, or is within two hundred (200) feet of any street, thoroughfare, or highway within the city. The failure of any person to cut and/or destroy such weeds, grass, brush, and other rank or noxious vegetation shall constitute a misdemeanor.

(2) It shall be unlawful for any person mentioned in subsection (1) to permit poison ivy or other plants which, due to pollination, are injurious or a menace to health to grow where they may cause injury or discomfort to any person within the city, regardless of the height, and such plants are hereby declared to be a public nuisance. The failure to destroy such poison ivy or other plants shall constitute a misdemeanor. (1982 Code, § 8-111)

13-108. Weeds, etc.--notice to cut or destroy. If the provisions of § 13-107 are not complied with, the recorder shall give notice of such condition,

in writing, to the owner, owner's agent, or occupant of the lot or parcel of land involved, which notice shall require the cutting, removal, and/or destruction of such weeds, grass, brush, or other vegetation within fifteen (15) days of the date of such notice. Notice under this section shall not be a condition precedent to a prosecution for violation of § 13-107. (1982 Code, § 8-112)

13-109. Weeds, etc.—cutting or destruction by city. If the person given notice as provided for in § 13-108 fails to cut, remove, and/or destroy such weeds, grass, brush, or other vegetation within the time prescribed in such notice, the recorder shall notify the superintendent of the street department to cut, remove, and/or destroy such vegetation, or have the same done, and the cost thereof, plus fifteen per cent (15%) for inspection and other incidental costs in connection therewith, shall be paid by the owner of the lot or parcel of land involved, and the costs shall be billed to such owner. If the bill is not fully paid within one hundred twenty (120) days after the mailing thereof, a ten per cent (10%) penalty shall be added, and the amount of such bill, plus penalty, shall be placed on the tax roll of the city as a lien upon the property and collected in the same manner as other city taxes are collected.

Any action by the city or its agents under this section shall not relieve any person from prosecution for violating § 13-107. (1982 Code, § 8-113)

CHAPTER 2

JUNKYARDS

SECTION

13-201. Junkyards.

13-201. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1982 Code, § 8-109)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

STRUCTURES UNFIT FOR OCCUPATION OR USE

SECTION

- 13-301. Findings of board.
- 13-302. Definitions.
- 13-303. "Public officer" designated; powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Enjoining enforcement of order.
- 13-312. Additional powers of public officer.
- 13-313. Powers conferred are supplemental.

13-301. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the city structures which are unfit for human occupation or use 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. (1982 Code, § 11-1301)

13-302. Definitions. (1) "Municipality" shall mean the City of McMinnville, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(3) "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.

(4) "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.

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

(6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof.

(7) "Structures" shall mean any building or structure, or part thereof, used for human occupation and intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (1982 Code, § 11-1302)

13-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the codes enforcement official of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the codes enforcement official. (1982 Code, § 11-1303)

13-304. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint, and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (1982 Code, § 11-1304)

13-305. 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 findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order: (1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure as a place 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. (1982 Code, § 11-1305)

13-306. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (1982 Code, § 11-1306)

13-307. 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. (1982 Code, § 11-1307)

13-308. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall, upon the filing of the notice with the office of the register of deeds of Warren County, be a lien on the property in favor of the city, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Warren County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court; provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the City of McMinnville to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1982 Code, § 11-1308)

13-309. 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 McMinnville; 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 uncleanliness. (1982 Code, § 11-1309)

13-310. 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 printed and published 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 Warren County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1982 Code, § 11-1310)

13-311. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such suit in the court. Hearings shall be had by the court on such suits within 20 days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (1982 Code, § 11-1311)

13-312. 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 or she may designate. (1982 Code, § 11-1312)

13-313. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the courts or any department 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. (1982 Code, § 11-1313)

CHAPTER 4

OPEN STORAGE OF REFUSE, JUNK, ABANDONED MOTOR VEHICLES AND RUBBISH

SECTION

- 13-401. Prohibition.
- 13-402. Definitions.
- 13-403. Exceptions.
- 13-404. Notice to remove.
- 13-405. Consent of notice.
- 13-406. Failure to comply with notice.
- 13-407. Penalties.
- 13-408. Procedure for enforcement of chapter.

13-401. Prohibition. It shall be unlawful for the owner and/or occupant of any residential or commercial building, structure, or property within the city limits of the City of McMinnville to utilize or permit the utilization of the premises of such property for the open display, storage, stacking, piling or scattering of any refuse, junk, abandoned motor vehicles or rubbish. It shall be the duty or responsibility of every such property owner and/or occupant to keep the premises clean and remove all refuse, junk, abandoned motor vehicles or rubbish from the premises. (Ord. #1292, June 1998)

13-402. Definitions. (1) An abandoned motor vehicle is one which does not have lawfully affixed thereto any unexpired license plate or plates and is in the state of disrepair, wrecked, dismantled, partially dismantled, discarded and is incapable of being moved under its own power.

(2) Motor vehicle is any vehicle which is designed to be self-propelled and to travel along the ground, and shall include but not be limited to automobiles, buses, motor bikes, motorcycles, motor scooters, all terrain vehicles (ATV's), trucks, tractors, go-carts, golf carts, campers and trailers.

(3) Refuse, junk and rubbish shall include, but not be limited to, abandoned motor vehicles or parts thereof, machinery or parts thereof, appliances or parts thereof, glass, building materials, building rubbish, old rope, rags, paper, bottles, iron or other base metals, all articles discarded or no longer used as a manufactured article composed of any one or more of the materials mentioned herein, or any residential or commercial refuse, byproduct, waste or remains. (Ord. #1292, June 1998)

13-403. Exceptions. This chapter shall not apply to the display of new or used vehicles by a car dealership or to the temporary storage of vehicles being repaired by a body shop or repair garage. This chapter shall not apply to any motor vehicle retained by the owner for antique collection purposes and licensed

by the State of Tennessee as such a vehicle. This chapter shall also not apply to the orderly stacking of lumber and materials at lumber yards or building supply businesses or to the temporary storage of building supplies on the site of commercial or residential building projects. No exceptions shall invite plundering, or endanger the health or safety of others, or create a fire hazard, or materially depreciate the value of the real property of others. (Ord. #1292, June 1998)

13-404. Notice to remove. Whenever a violation of this chapter shall come to the attention of the Fire Marshall for the City of McMinnville, or his/her designee, he/she shall serve a notice in writing to remove the violation upon the occupant and owner of the property where the violation exists. It shall constitute sufficient notice when a copy of same is posted in a conspicuous place upon the property alleged to be in violation of this chapter and duplicate copies are sent by registered mail to the occupant and owner of the property at his/their last known address. (Ord. #1292, June 1998)

13-405. Consent of notice. The notice shall fully describe the alleged violation of this chapter and shall allow the occupant and/or owner of the property thirty (30) days to remove the violation from the premises prior to any further action by the fire marshall. (Ord. #1292, June 1998)

13-406. Failure to comply with notice. Any person failing to comply with the notice to remove within thirty (30) days shall be cited into the Municipal Court for the City of McMinnville at its next regular convening. (Ord. #1292, June 1998)

13-407. Penalties. Violation of this chapter shall, upon conviction, result in imposition of a fine up to \$500.00 for each offense, plus the imposition of costs. Each separate day such violation is continued after the conviction shall constitute a separate offense. After a conviction for violation of this chapter becomes final, the City of McMinnville may, at its discretion, choose to enter upon the offending premises and remove the refuse, junk, abandoned motor vehicles or rubbish. In that event, the occupant and/or owner shall be jointly liable to the City of McMinnville for all reasonable costs associated with the removal of the refuse, junk, abandoned motor vehicles or rubbish. (Ord. #1292, June 1998)

13-408. Procedure for enforcement of chapter. (1) Notice shall be sent by the fire marshall or his/her designee to the owner and occupant of the premises.

(2) If the violation persists beyond the 10 day limit announced in the notice, then citations to city court should be issued and served on the owner and occupant.

(3) A hearing will then be held in city court to determine whether a violation of the ordinance exists.

(4) If a violation is found, then the court, pursuant to T.C.A. § 6-54-308, can penalize the violator up to \$500.00, plus costs. This is a continuing offense and the penalty can be increased per day for as long as the violation continues. The violator has 10 days to appeal.

(5) After the 10 day time period for appeal has passed, pursuant to T.C.A. § 6-54-303, in all municipal courts where the judge has entered a judgment for fines and costs, and the same remain unpaid for (30) days thereafter, the court is authorized by and through its clerk to issue execution. The city court clerk should be trained to issue execution. Execution may be had on the bank accounts of the violators. This option will probably not be effective after the first withdrawal however, and does not ensure that the property will be cleaned. The clerk can also issue garnishment of the violators' wages and levy of execution on the violators' personal and real property.

(6) After the judgment is final, the city can enter the premises and clean the place. The owner and/or occupant can be charged with the clean up costs. This will require a second citation to city court to determine the reasonableness of the costs and obtain a judgment for those costs. This will also involve the risk of civil action against the city if the violator claims that the refuse, junk, abandoned motor vehicles and rubbish were his personal treasures and not junk at all. Careful oversight and documentation should be kept if this option is pursued.

(7) After the judgment is final, if the city does not wish to undertake the clean up and attempt to recover the costs, the violator may be held in contempt for failing to abide by the order of the municipal court. Pursuant to T.C.A. § 29-9-103, the fine for contempt of a municipal court is \$10.00. The municipal court has the power not only to fine, but also to jail violators for contempt. According to T.C.A. § 29-9-104, if the contempt consists in an omission to perform an act which it is yet in the power of the person to perform, he may be imprisoned until he performs it. This option would require an agreement with the county for housing of inmates jailed by the municipal court. (Ord. #1292, June 1998)

TITLE 14**ZONING¹ AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. TRAILERS AND TRAILER PARKS.
4. FLOODPLAIN REGULATIONS.
5. OFFICIAL SIGN CODE.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION²****SECTION**

- 14-101. Purpose created.
- 14-102. Composition; appointment of members.
- 14-103. Terms of members; filling of vacancies.
- 14-104. Members not compensated.
- 14-105. Removal of members.
- 14-106. Election and term of chairman.
- 14-107. General powers, duties, and responsibilities.
- 14-108. Additional powers.
- 14-109. Adoption of rules.
- 14-110. Appointment of employees and staff; contracts with consultants.
- 14-111. Expenditures.

14-101. Purpose created. In order to guide and accomplish a coordinated and harmonious development of the city which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as the efficiency and economy in the process of development, a municipal planning commission is hereby created and established. (1982 Code, § 11-101)

14-102. Composition; appointment of members. The planning commission shall consist of seven (7) members. One (1) of the members shall be the mayor, and one (1) shall be a member of the board of mayor and

¹Charter reference

Priv. Acts 1937, ch. 225, in related private acts following the charter.

²State law reference

Tennessee Code Annotated, title 13, chapter 4.

aldermen selected by such board, and the remaining five (5) shall be citizens appointed by the mayor. (1982 Code, § 11-102)

14-103. Terms of members; filling of vacancies. The terms of the five (5) appointive members of the planning commission shall be five (5) years, except that in the appointment of the initial members, one (1) of such members shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years, and one (1) for a term of five (5) years. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. The term of any member selected from the board of mayor and aldermen shall run concurrently with his membership on such board. (1982 Code, § 11-103)

14-104. Members not compensated. All members of the planning commission shall serve without compensation. (1982 Code, § 11-104)

14-105. Removal of members. The mayor shall have authority to remove any appointive member of the planning commission at his pleasure. (1982 Code, § 11-105)

14-106. Election and term of chairman. The planning commission shall elect its chairman from among its appointive members. The term of the chairman shall be one (1) year with eligibility for reelection. (1982 Code, § 11-106)

14-107. General powers, duties, and responsibilities. The planning commission shall have all the powers, duties, and responsibilities set forth in all applicable provisions of Tennessee Code Annotated, title 13. (1982 Code, § 11-107)

14-108. 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. (1982 Code, § 11-108)

14-109. Adoption of rules. The planning commission shall adopt rules for the transactions, findings, and determinations of the commission, which rules shall be public records. (1982 Code, § 11-109)

14-110. Appointment of employees and staff; contracts with consultants. The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with city planners and other consultants or such services as it may require. (1982 Code, § 11-110)

14-111. Expenditures. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose of the board of mayor and aldermen. (1982 Code, § 11-111)

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 McMinnville shall be governed by Ordinance Number 374, titled "Zoning Ordinance of McMinnville, Tennessee," and any amendments thereto.¹

¹Ordinance #374, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

See Ord. #1101 (Nov. 1995) of record in the office of the recorder, adopting a new zoning ordinance and map.

See Ord. #1470 (Aug. 2003) for the latest zoning map adopted.

CHAPTER 3

TRAILERS AND TRAILER PARKS

SECTION

- 14-301. Definitions.
- 14-302. Board of investigators for enforcement of chapter.
- 14-303. Purpose of fees imposed by chapter.
- 14-304. Trailers located outside trailer parks--prohibition and exceptions.
- 14-305. Dependent trailers prohibited.
- 14-306. Water supply for trailers located outside trailer parks.
- 14-307. Trailers located outside trailer parks--garbage can required; maintenance of garbage can and surrounding area.
- 14-308. License required for trailers located outside trailer parks.
- 14-309. Duty of occupant to secure license.
- 14-310. Application.
- 14-311. Fee.
- 14-312. Issuance.
- 14-313. Posting.
- 14-314. Expiration.
- 14-315. Trailer parks--districts in which permitted; location with respect to permanent dwellings.
- 14-316. Trailer parks--drainage requirements.
- 14-317. Trailer parks--trailer spaces generally.
- 14-318. Trailer parks--clearance between trailers and between trailers and property lines.
- 14-319. Trailer parks--electric outlets for trailer spaces.
- 14-320. Trailer parks--driveways.
- 14-321. Trailer parks--water supply.
- 14-322. Trailer parks--sewage disposal.
- 14-323. Trailer parks--toilet and bath facilities required for dependent trailers.
- 14-324. Trailer parks--garbage cans required; maintenance of garbage cans and surrounding areas.
- 14-325. Trailer parks--maintenance of service buildings and grounds.
- 14-326. Trailer parks--fire extinguishers.
- 14-327. Trailer parks--open or unattended fires.
- 14-328. Trailer parks--pets not to run at large or commit nuisance.
- 14-329. Trailer parks--guest register.
- 14-330. Trailer parks--license required.
- 14-331. Application for license.
- 14-332. Fee.
- 14-333. Issuance.
- 14-334. Posting.
- 14-335. Expiration.
- 14-336. Revocation.

14-301. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

(1) "Dependent trailer" means a trailer which does not have a toilet and a bath or shower.

(2) "Independent trailer" means a trailer that has a toilet and bath or shower.

(3) "Independent trailer space" means a trailer space which has sewer and water connections designated to accommodate the toilet and bath or shower contained in an independent trailer.

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

(5) "Park" means a trailer park.

(6) "Trailer" means any structure intended for or capable of use for human habitation, vehicular in design, which may be driven, towed, or propelled from one location to another without change in structure or design, whether or not the same is supported by wheels.

(7) "Trailer park" means any plot of ground upon which two (2) or more trailers, occupied or unoccupied, for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

(8) "Trailer space" means a plot of ground within a trailer park designated for the accommodation of one (1) trailer. (1982 Code, § 5-601)

14-302. Board of investigators for enforcement of chapter. (1) A board of investigators, consisting of the health officer, the chief of the fire department, the chief of police, the building inspector, and the planning commission chairman, is hereby created, with the building inspector as chairman. The chairman shall, with the approval of the members of such board, appoint a secretary for the board from among the employees of the city.

(2) It is hereby made the duty of the board of investigators created in this section to enforce all provisions of this chapter and, for the purpose of securing such enforcement, any of the members of the board, or their duly authorized representatives, shall have the right and are hereby empowered to enter upon any premises on which any trailer is located, or is about to be located, and inspect the same and all trailers and accommodations connected therewith at any reasonable time. Such board is further empowered to issue orders granting, renewing, and revoking licenses provided for in this chapter. (1982 Code, § 5-602)

14-303. Purpose of fees imposed by chapter. Fees charged under the license requirements of this chapter are for inspection and the administration of this chapter. (1982 Code, § 5-603)

14-304. Trailers located outside trailer parks--prohibition and exceptions. (1) It shall be unlawful for any person to cause to be erected,

maintained, inhabited, or used in any way whatsoever any trailer within the corporate limits of the city, except in trailer parks licensed in accord with this chapter.

(2) Subsection (1) of this section shall not apply to any person occupying a trailer in the city, and outside a licensed trailer park, on December 5, 1966, so long as he continues to occupy the same trailer at the same location. In the event such occupant sells, leases, transfers, abandons, moves, or ceases to use such trailer, then the subsequent use or occupancy thereof by any person, including the original occupant, shall be unlawful.

(3) In the event of exceptional hardships, a trailer owner may request permission for an exception to this section by application to the board of zoning appeals using the method prescribed in the zoning ordinance for appeals. The decision of the board of zoning appeals shall be final. (1982 Code, § 5-604)

14-305. Dependent trailers prohibited. Dependent trailers shall not be parked within the city, except in a trailer park licensed in accord with this chapter. (1982 Code, § 5-605)

14-306. Water supply for trailers located outside trailer parks. An adequate supply of pure water for drinking and domestic purposes shall be supplied for every trailer located outside a licensed trailer park. (1982 Code, § 5-606)

14-307. Trailers located outside trailer parks--garbage can required; maintenance of garbage can and surrounding area. A garbage can of a standard required by § 17-104 of this code shall be provided for each trailer located outside a licensed trailer park. The garbage can and surrounding area shall be kept in a sanitary condition at all times. (1982 Code, § 5-607)

14-308. License required for trailers located outside trailer parks. It shall be unlawful for any person to maintain a trailer as a dwelling, outside a licensed trailer park, or for the owner of any property outside a licensed trailer park to let space for a trailer, unless a current license has been obtained for such trailer. (1982 Code, § 5-608)

14-309. Duty of occupant to secure license. It shall be the responsibility of the occupant of a trailer to secure the license required by the preceding section. (1982 Code, § 5-609)

14-310. Application. Application for a trailer license under § 14-308 shall be filed in triplicate with the building inspector. Such application shall be in writing, signed by the applicant, and shall contain the following:

(1) The name of the applicant and all people who are to reside in the trailer.

- (2) The location and description of the trailer.
- (3) The state license number, make, and model year of the trailer and any automobile owned by an occupant of the trailer.
- (4) Further information as may be required by the city to enable it to determine if the trailer and site will comply with legal requirements. (1982 Code, § 5-610)

14-311. Fee. The annual fee for a license required by § 14-308 shall be five dollars (\$5.00). (1982 Code, § 5-611)

14-312. Issuance. The license required by § 14-308 shall be issued by the building inspector, after the applicant has complied with all provisions of this chapter. (1982 Code, § 5-612)

14-313. Posting. A license issued under § 14-308 shall be conspicuously posted on or near the door of the trailer for which it was issued. (1982 Code, § 5-613)

14-314. Expiration. A license issued under § 14-308 shall expire twelve (12) months from the date of issuance. (1982 Code, § 5-614)

14-315. Trailer parks--districts in which permitted; location with respect to permanent dwellings. Trailer parks may be located in any district established by the zoning ordinance except low density residence districts.¹ Each boundary of the park must be at least forty (40) feet from any permanent residential building located outside the park, unless separated therefrom by a natural or artificial barrier, or unless a majority of the property owners, according to area within such forty (40) feet, consent in writing to the establishment of the park. (1982 Code, § 5-615)

14-316. Trailer parks--drainage requirements. Every trailer park shall be located on a well-drained site properly graded to insure rapid drainage and free from stagnant pools of water. (1982 Code, § 5-616)

14-317. Trailer parks--trailer spaces generally. Trailer spaces shall be provided in a trailer park, with a minimum of one thousand (1000) square feet for each space. Each space shall be at least twenty-five (25) feet wide and clearly defined. (1982 Code, § 5-617)

14-318. Trailer parks--clearance between trailers and between trailers and property lines. Trailers shall be so parked on each trailer space

¹See the zoning ordinance of record in the office of the recorder.

in a park that there shall be at least fifteen (15) feet of clearance between trailers. No trailer shall be located closer than ten (10) feet from any property line bounding the park. (1982 Code, § 5-618)

14-319. Trailer parks--electric outlets for trailer spaces. An electrical outlet supplying at least one hundred ten (110) volts shall be provided for each trailer space in a trailer park. (1982 Code, § 5-619)

14-320. Trailer parks--driveways. All trailer spaces in a park shall abut upon a driveway of not less than twenty (20) feet in width which shall have unobstructed access to a public street, alley, or highway. All driveways constructed after January 3, 1966, shall be hard-surfaced. (1982 Code, § 5-620)

14-321. Trailer parks--water supply. An adequate supply of pure water for drinking and domestic purposes shall be supplied to meet the requirements of each trailer park. The water supply shall be obtained from faucets only. No common drinking cups shall be permitted. Cold water supply faucets shall be located on each trailer space. An adequate supply of hot water shall be provided at all times in the service building for washing and laundry facilities. (1982 Code, § 5-621)

14-322. Trailer parks--sewage disposal. Waste from toilets, slop sinks, and laundries in a trailer park shall be discharged into a public sewer system in compliance with applicable provisions of this code or into a private sewer and disposal plant or septic tank system of such construction and in such a manner as will present no health hazard. All kitchen sinks, washbasins, or bath or shower tubs in any trailer harbored in any park may empty into a sanitary sink drain located on the trailer coach space. (1982 Code, § 5-622)

14-323. Trailer parks--toilet and bath facilities required for dependent trailers. Dependent trailers shall not be parked within a trailer park unless the trailer park provides at least one (1) flush toilet, one (1) shower bath or tub, and one (1) lavatory for every ten (10) dependent trailer spaces in the park. (1982 Code, § 5-623)

14-324. Trailer parks--garbage cans required; maintenance of garbage cans and surrounding areas. A garbage can of a standard required by § 17-104 of this code shall be provided for each trailer located in a trailer park. The garbage can and surrounding area shall be kept in a sanitary condition at all times. (1982 Code, § 5-624)

14-325. Trailer parks--maintenance of service buildings and grounds. All service buildings and the grounds of a trailer park shall be maintained in a clean, sightly condition and kept free from any condition that

will menace the health of any occupant or the public or constitute a nuisance. (1982 Code, § 5-625)

14-326. Trailer parks--fire extinguishers. Every trailer park shall be equipped at all times with one (1) fire extinguisher, of a type approved by the fire chief, in good working order, for every ten (10) trailer spaces, and located not further than two hundred (200) feet from each trailer space. (1982 Code, § 5-626)

14-327. Trailer parks--open or unattended fires. No open fires shall be permitted at any place within a trailer park which would endanger life or property. No fires shall be left unattended in a park at any time. (1982 Code, § 5-627)

14-328. Trailer parks--pets not to run at large or commit nuisance. No owner or person in charge of any dog, cat, or other pet animal shall permit it to run at large or commit any nuisance within the limits of any trailer park. (1982 Code, § 5-628)

14-329. Trailer parks--guest register. It shall be the duty of each trailer park licensee to keep a register containing a record of all trailer owners and occupants located within the park. The register shall contain the following information:

- (1) The name and address of each occupant.
- (2) The name of the owner, make, model, year, and state license number of all trailers.
- (3) The license number, name of owner, make, model, and year of each automobile by which a trailer is towed, and the same information for other automobiles belonging to occupants of trailers within the park.
- (4) The dates of arrival and departure of each trailer.

Such register shall be kept 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. (1982 Code, § 5-629)

14-330. Trailer parks--license required. It shall be unlawful for any person to maintain or operate within the city any trailer park unless he first obtains a license therefor. (1982 Code, § 5-630)

14-331. Application for license. Application for a trailer park license shall be filed with the building inspector. Such application shall be in writing and 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 trailer park.
- (3) A complete plan of the park showing compliance with all applicable provisions of this chapter.
- (4) Plans and specifications of all buildings and other improvements constructed or to be constructed within the trailer park.
- (5) Such further information as may be required by the city to enable it to determine if the proposed park will comply with all legal requirements.

The applications and all accompanying plans and specifications shall be filed in triplicate. (1982 Code, § 5-631)

14-332. Fee. The annual license fee for a trailer park shall be an amount equal to five dollars (\$5.00) for each trailer space located in the park, whether occupied or not. (1982 Code, § 5-632)

14-333. Issuance. A license required by § 14-330 shall be issued by the building inspector, if the applicant and the trailer park meet the requirements of this chapter. (1982 Code, § 5-633)

14-334. Posting. The license for a trailer park shall be posted near the front door in the park office or elsewhere in a conspicuous place on the premises of the park at all times. (1982 Code, § 5-634)

14-335. Expiration. A license issued under § 14-330 shall expire twelve (12) months from the date of issuance. (1982 Code, § 5-635)

14-336. Revocation. The city may revoke any license to maintain and operate a trailer park when the licensee fails to comply with any provision of this chapter and is found guilty by a court of competent jurisdiction of violating any provision hereof. After revocation, the license may be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law. (1982 Code, § 5-636)

CHAPTER 4

FLOODPLAIN REGULATIONS

SECTION

- 14-401. Findings of fact, purpose and objectives.
- 14-402. Definitions.
- 14-403. General provisions.
- 14-404. Administration.
- 14-405. Provisions for flood hazard reduction.
- 14-406. Variance procedures.

14-401. Findings of fact, purpose and objectives. (1) Findings of fact. (a) The City of McMinnville, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the City of McMinnville, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(2) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(3) Objectives. The objectives of this chapter are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area;

(h) To maintain eligibility for participation in the NFIP. (Ord. #1068, March 1993, as replaced by Ord. #1572, July 2008, and Ord. #1620, July 2010)

14-402. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this chapter, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(5) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(6) "Area of special flood hazard" see "special flood hazard area."

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building" see "structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(14) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(15) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures" see "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage,

including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship

building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of McMinnville, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(44) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(46) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the ordinance comprising this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(47) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "100-year flood" see "base flood."

(49) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(50) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, A1-30, AE, A99, or AH.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(56) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure," for purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial improvement; or

(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this chapter.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #1068, March 1993, as replaced by Ord. #1572, July 2008, and Ord. #1620, July 2010)

14-403. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the City of McMinnville, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of McMinnville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47177C0133D, 47177C0134D,

47177C0139D, 47177C0141D, 47177C0142D, 47177C0143D, 47177C0153D, and 47177C0161D dated September 26, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of McMinnville, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of McMinnville, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #1068, March 1993, as replaced by Ord. #1572, July 2008, and Ord. #1620, July 2010)

14-404. Administration. (1) Designation of ordinance administrator. The director of planning and zoning is hereby appointed as the administrator to implement the provisions of the ordinance comprising this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-405(1) and (2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by, or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the

lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-404(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-404(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-404(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of McMinnville, Tennessee FIRM meet the requirements of this chapter.

(k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #1068, March 1993, as replaced by Ord. #1572, July 2008, and Ord. #1620, July 2010)

14-405. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter;

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-405(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-405(1), are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-404(2)

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria:

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

- (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - (ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
 - (iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-405(2).
- (3) Standards for manufactured homes and recreational vehicles.
 - (a) All manufactured homes placed, or substantially improved, on:
 - (i) Individual lots or parcels;
 - (ii) In expansions to existing manufactured home parks or subdivisions; or
 - (iii) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
 - (b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - (i) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation;
 - (ii) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-402).
 - (c) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-405(1) and (2).
 - (d) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (e) All recreational vehicles placed in an identified special flood hazard area must either:
 - (i) Be on the site for fewer than one hundred eighty (180) consecutive days;
 - (ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

(iii) The recreational vehicle must meet all the requirements for new construction.

(4) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(a) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(c) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(d) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-405(5)).

(5) Standards for special flood hazard areas with established base flood elevations with floodways designated. Located within the special flood hazard areas established in § 14-403(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of McMinnville, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(6) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-403(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(7) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-403(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see § 14-404(2)(b)), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-405(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-404(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-405(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from

other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of McMinnville, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2). Within approximate A Zones, require that those subsections of § 14-405(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(8) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-403(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-405(1) and (2), apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRM, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-405(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and

methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-404(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(9) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-403(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-404 and 14-405 shall apply.

(10) Standards for unmapped streams. Located within the City of McMinnville, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-404 and § 14-405. (Ord. #1068, March 1993, as replaced by Ord. #1572, July 2008, and Ord. #1620, July 2010)

14-406. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The City of McMinnville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any

decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of one hundred dollars (\$100.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than forty-five (45) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of McMinnville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) Importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-406(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure

below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #1068, March 1993, as replaced by Ord. #1572, July 2008, and Ord. #1620, July 2010)

CHAPTER 5**OFFICIAL SIGN CODE****SECTION**

14-501. Governed by ordinance available in recorder's office.

14-501. Governed by ordinance available in recorder's office.

Regulations for signs and similar advertising structures are established as a reasonable and impartial method of regulating signs and similar advertising structures in order to insure light, air, and open space, to reduce hazards at intersections, to protect property values of the entire community, and to enhance the aesthetics of the community. These regulations are provided in Ordinance Number 1108, March 1994,¹ which is of record in the office of the recorder.

¹This ordinance has been amended by Ord. #1136 (March 1995), Ord. #1215 (Sept. 1996) and amended by Ord. #1276 (Dec. 1997) which are of record in the office of the recorder.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. SPEED LIMITS.
3. TURNING MOVEMENTS.
4. STOPPING AND YIELDING.
5. PARKING.
6. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Adoption of state traffic statutes.
- 15-102. Vehicles to display state registration plates.
- 15-103. State registration certificate and title card to be in possession of occupant of vehicle.
- 15-104. Drivers to be licensed by state.
- 15-105. Vehicle equipment.
- 15-106. Size, weight, and load restrictions generally.
- 15-107. Load restrictions upon vehicles using certain streets.
- 15-108. Loads projecting from rear of vehicles.
- 15-109. Use of coasters and similar devices restricted.
- 15-110. Persons operating bicycles to obey traffic-control devices.
- 15-111. Riding bicycles, skateboards or scooters, go-cart, tricycle, or any other recreational type of device propelled solely by human power on sidewalks regulated.
- 15-112. Riding on portion of vehicle not intended for passengers.
- 15-113. Boarding or alighting from moving vehicles.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

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.

- 15-114. Opening doors into traffic.
- 15-115. "Jaywalking" regulated.
- 15-116. Operation of motor vehicle without adequate energy absorption system prohibited -- alteration of altitude from ground level of passenger car prohibited -- exceptions -- enforcement -- penalties.
- 15-117. Miscellaneous traffic-control signs, etc.
- 15-118. General requirements for traffic-control signs, etc.
- 15-119. Unauthorized traffic-control signs, etc.
- 15-120. Presumption with respect to traffic-control signs, etc.
- 15-121. Driving in processions.
- 15-122. Driving through funerals or other processions.
- 15-123. Driving through safety zone.
- 15-124. Damaging pavements.
- 15-125. Designation of crosswalks and safety zones.
- 15-126. No-passing zones.
- 15-127. One-way streets and rotary traffic islands.
- 15-128. Driving on streets closed for repairs, etc.
- 15-129. Operation of vehicles on school grounds.
- 15-130. Obstructing intersection or crosswalk.
- 15-131. "Corner cutting."
- 15-132. Operation of vehicles in non-road park areas.
- 15-133. Trespassing by motor vehicle.
- 15-134. Proof of compliance with financial responsibility law required.
- 15-135. Careless driving.

15-101. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, the City of McMinnville 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, and 55-8-133 through 55-8-180. Additionally, the City of McMinnville adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, 55-9601 through 55-9606, and 55-12-139 by reference as if fully set forth in this section. (1982 Code, § 9-101, as replaced by Ord. #1527, Sept. 2006)

15-102. Vehicles to display state registration plates. It shall be unlawful for any person to operate any vehicle, or for the owner of any vehicle to permit the same to be operated within the city, unless there is attached to such vehicle and displayed thereon, when and as required by Tennessee Code Annotated, title 55, chapters 1 through 6, a valid and outstanding registration plate or plates issued to the owner thereof by the state for the current registration year, or a registration plate or plates issued to such owner with the proper sticker or other device attached or affixed thereto indicating a valid renewal of such registration plate or plates. (1982 Code, § 9-102)

15-103. State registration certificate and title card to be in possession of occupant of vehicle. No person shall operate nor shall any

owner knowingly permit to be operated within the city any vehicle required to be registered under Tennessee Code Annotated, title 55, chapters 1 through 6, unless some occupant of the vehicle has in his possession both the certificate of registration and the title card required by such chapters. (1982 Code, § 9-103)

15-104. Drivers to be licensed by state. It shall be unlawful for any person to drive or operate a motor vehicle within the corporate limits of the city without having secured and having in his possession a valid driver's or chauffeur's license as required by the state. (1982 Code, § 9-104)

15-105. Vehicle equipment. It shall be unlawful for any person to operate or any owner to permit the operation of any vehicle within the city unless such vehicle meets all of the requirements of the state law as to equipment.¹ It shall likewise be unlawful for any person to fail to use any such equipment as required by state law or to use any equipment contrary to state law. (1982 Code, § 9-105)

15-106. Size, weight, and load restrictions generally. It shall be unlawful for any person to operate upon any street or alley of the city any vehicle which violates the size, weight, or load restrictions of Tennessee law,² unless he shall first obtain a permit from the chief of police. The chief shall issue such a permit only upon a written application which reasonably establishes that such an operation can and probably will be accomplished without injury or damage to any person or property. The application must be submitted at least three (3) days in advance of the contemplated operation, must be in such form as is prescribed by the chief of police, and must be accompanied by an indemnity bond in the amount of one thousand dollars (\$1,000.00), which indemnity bond shall inure to the benefit of any person who suffers personal injury or property damage as a result of such vehicle's operation and for which the permittee is found to be liable. (1982 Code, § 9-106)

15-107. Load restrictions upon vehicles using certain streets.

(1) **Definitions.** (a) "Truck" means a vehicle or trailer possessing two or more rear axles and/or weighing in excess of 10,000 pounds empty weight.

(b) "through truck traffic" means trucks entering the City of McMinnville from any point outside the city and destined for any other

¹State law reference

Tennessee Code Annotated, title 55, chapter 9.

²State law reference

Tennessee Code Annotated, title 55, chapter 11.

point located outside the city proceeding entirely through without unloading or loading freight within the city of McMinnville.

(c) "Local truck traffic" means trucks entering the City of McMinnville for the purpose of unloading or loading freight.

(2) Load restrictions on vehicles using certain streets. All streets in the City of McMinnville, Tennessee, are restricted from "truck" passage unless such streets are designated as "through truck traffic routes" or unless such streets are being used as "local truck traffic routes" in accordance with Section 4 herein.

(3) "Through truck traffic routes." The City of McMinnville shall cause "through truck traffic routes" to be designated by appropriate signs. The following streets are hereby declared to be through "truck traffic routes":

U.S. Highway 70 South

Bobby Ray Memorial Parkway

H.T. Pelham Memorial Parkway

South Chancery Street

North Chancery Street between South Chancery Street and Smithville Highway

Smithville Highway

Beersheba Highway

Harrison Ferry Road

Manchester Highway

(4) "Local truck traffic routes." No local truck traffic shall drive on any street not designated as a "through truck traffic route" except when necessary for egress and ingress to a location for the purpose of loading or unloading freight and provided that the driver of such truck shall have in the cab of the truck a bill of lading, move ticket, work order or receipt of service bearing an address along the route to or line of the restricted street. All local truck traffic shall use the most direct and/or accessible route which connects a "through truck traffic route" to the origination or destination address within the City of McMinnville. All local truck traffic loading or unloading must be parked in a designated loading zone or parking space(s) identified for loading or unloading. When available, rear entrances shall be used for loading and unloading.

(5) Owners and operators of trucks held responsible. Whenever any truck is operated in violation of this ordinance, the owner and/or driver of such truck shall be deemed guilty of such violation and either or both the owner and driver of such truck may be prosecuted for such violation.

(6) Penalty. A violation of this ordinance shall be punishable by a mandatory fifty dollar (\$50.00) fine without eligibility for Driving Safety School. (1982 Code, § 9-107, as replaced by Ord. #1509, Nov. 2005)

15-108. Loads projecting from rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection,

in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) 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 (200) feet from the rear of such vehicle. (1982 Code, § 9-108)

15-109. Use of coasters and similar devices restricted. No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device shall go upon any roadway except while crossing a street on a crosswalk, and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. (1982 Code, § 9-109)

15-110. Persons operating bicycles to obey traffic-control devices. (1) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(2) Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians. (1982 Code, § 9-110)

15-111. Riding bicycles, skateboards or scooters, go-cart, tricycle, or any other recreational type of device propelled solely by human power on sidewalks regulated. (1) No person shall ride a bicycle upon a sidewalk within a business district, as defined in Tennessee Code Annotated, §§ 55-8-101(6).

(2) No person fifteen (15) or more years of age shall ride a bicycle upon any sidewalk in any district.

(3) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(4) No person shall use or ride a skateboard, scooter, go-cart, tricycle, or any other recreational type of device propelled solely by human power upon a sidewalk, street, highway, or municipal parking lot within a business district as defined in Tennessee Code Annotated, § 55-8-101(6). This section shall not apply to self-propelled, battery operated, or motorized device designed for and used by physically handicapped persons.

(5) Whenever any person is riding a skateboard, scooter, go-cart, tricycle, or any other type of recreational device propelled solely by human power upon a sidewalk outside of a business district, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(6) Violations of any provision of this section of the McMinnville Municipal Code of 1994 shall upon conviction be punished by a fine of not less

than two and no/100 dollars (\$2.00) nor more than fifty and no/100 dollars (\$50.00) or as provided by the laws of the State of Tennessee for juveniles. (1982 Code, § 9-111)

15-112. Riding on portion of vehicle not intended for passengers.

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. (1982 Code, § 9-112)

15-113. Boarding or alighting from moving vehicles. No person shall board or alight from any vehicle while such vehicle is in motion. (1982 Code, § 9-113)

15-114. Opening doors into traffic. No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (1982 Code, § 9-114)

15-115. "Jaywalking" regulated. No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk. At intersections where traffic-control signals have traffic stopped in all directions, these provisions shall not apply to pedestrians crossing within the area common to both intersecting roadways. (1982 Code, § 9-115)

15-116. Operation of motor vehicle without adequate energy absorption system prohibited -- alteration of altitude from ground level of passenger car prohibited -- exceptions -- enforcement -- penalties. (1) No person shall operate a motor vehicle on any road, street, or highway within the City of McMinnville, unless the vehicle is equipped with a bumper or other energy absorption system with an analogous function.

(2) No person shall operate a passenger vehicle, except a four-wheel drive recreational vehicle, of a type required to be registered under the laws of this state upon a public highway or street, within the city, by reason of alteration of its altitude from the ground if its bumpers, measured to any point on a load-bearing member on the horizontal bumper bar, are not within the range of fourteen inches (14") to twenty-two inches (22") above the ground, except that no vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground or expose the fuel tank to damage from collision or cause the wheels to come in contact with the body under normal operation

and that no part of the original suspension system be disconnected to defeat the safe operation of the suspension system; provided, that nothing contained in this section shall prevent the installation of heavy duty equipment to include shock absorbers and overload springs; and provided further, that nothing contained in this section shall prevent a person from operating a motor vehicle on a public highway with normal wear of the suspension system if normal wear does not affect the control of the vehicle. In the case of a four-wheel drive vehicle where the thirty-one inches (31") limitation is exceeded, the vehicle will comply with this section if the vehicle is equipped with a drop bumper. Such a drop bumper must be bolted and welded to the frame of the vehicle and be made of a strength equal to a stock bumper.

(3) This section shall not apply to freight motor vehicles which have designs which would intrinsically preclude conformity with this provision. This section also shall not apply to any vehicle which has an unaltered and undamaged stock bumper or energy absorption system as supplied by the manufacturer of the vehicle.

(4) Any law enforcement officer charged with the enforcement of traffic laws and regulations may stop and inspect motor vehicles which appear to be operated in violation of this section. If, upon inspection, the vehicle is found to be in violation of this section, the operator shall be issued a citation stating the particulars of the violation and, in general, the repairs necessary to bring the vehicle into compliance with this section. The citation shall also state a time and place for appearance in a municipal court or any other court of competent traffic jurisdiction, not less than fourteen (14) days from the date of the issuance of the citation.

(5) If, upon reinspection at such an appearance, the defect is found to have been corrected, or the vehicle is found to be in compliance with this section, no further penalties shall be assessed. If, however, the vehicle is found not to be in compliance with this section, the operator shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

(6) Nothing in this section shall be construed to establish standards higher than those formulated by the United States Department of Transportation and the Tennessee Department of Transportation for bumpers on passenger motor vehicles sold within the United States. (1982 Code, § 9-116)

15-117. 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.

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-401--15-405.

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. (1982 Code, § 9-207)

15-118. 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,¹ 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. This section shall not be construed as being mandatory but is merely directive. (1982 Code, § 9-208)

15-119. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1982 Code, § 9-209)

15-120. 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. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1982 Code, § 9-210)

15-121. Driving in processions. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe. (1982 Code, § 9-312)

15-122. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle other than an authorized emergency 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. (1982 Code, § 9-313)

¹This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

15-123. Driving through safety zone. No vehicle shall at any time be driven through or within a safety zone. (1982 Code, § 9-316)

15-124. 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. (1982 Code, § 9-315)

15-125. Designation of crosswalks and safety zones. The chief of police is hereby authorized: (1) To designate and maintain crosswalks by appropriate devices, marks, or lines upon the surface of the roadway at intersections where, in his opinion, there is particular danger to pedestrians crossing the roadway, and at such places as he may deem necessary.

(2) To establish zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians. (1982 Code, § 9-206)

15-126. No-passing zones. The board of mayor and aldermen may determine those portions of any street where overtaking and passing or driving to the left of the roadway would be especially hazardous and the beginning and end of such zones shall be indicated by a yellow line on the roadway to the right of the lane line. 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. (1982 Code, § 9-310)

15-127. One-way streets and rotary traffic islands. (1) The board of mayor and aldermen may designate any street or any separate roadway under its jurisdiction for one-way traffic and the chief of police shall erect appropriate signs giving notice thereof.

(2) Upon a roadway designated and signposted for one-way traffic, a vehicle shall be driven only in the direction designated.

(3) A vehicle passing around a rotary traffic island shall be driven only to the right of such island. (1982 Code, § 9-311)

15-128. 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. (1982 Code, § 9-314)

15-129. Operation of vehicles on school grounds. (1) It shall be unlawful for any person to park, drive, or operate any motor vehicle on the grounds or premises of the schools in the city during school hours, unless such vehicular operation is done pursuant to or in connection with the transportation of pupils to or from school, or for business purposes in connection with school operation.

(2) It shall be the duty of the chief of police or any other police officer immediately to arrest any offender hereunder and bring him before the city judge and, for the purpose of enforcing this section, all school principals and teachers in the school system are hereby appointed special police officers with full power and authority to act as such in the enforcement of this section. (1982 Code, § 9-306)

15-130. Obstructing intersection or crosswalk. 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. (1982 Code, § 9-307)

15-131. "Corner cutting." No one shall drive a vehicle from a street or alley across premises on which a filling station, store, or other business concern is located, or across public property, for the sole purpose of passing from one street or alley to another. (1982 Code, § 9-317)

15-132. Operation of vehicles in non-road park areas. It shall be unlawful for any person to drive any motor vehicle, including but not limited to, automobiles, trucks, motorcycles, and motor scooters in, over, onto, or across any of the parks and recreational areas of the city not usually and customarily used for vehicular traffic. (1982 Code, § 9-318)

15-133. Trespassing by motor vehicle. (1) Any person who drives, parks, stands, or otherwise operates a motor vehicle on, through or within a parking area, driving area or roadway located on privately owned property which is provided for use by patrons, customers or employees of business establishments upon such property, or adjoining property or for use otherwise in connection with activities conducted upon such property, or adjoining property, after such person has been requested or ordered to leave the property or to cease doing any of the foregoing actions shall be guilty of a misdemeanor, and on conviction shall be fined not more than fifty dollars (\$50.00). A request or order under this section may be given by a law enforcement officer or by the owner, lessee, or other person having the right to the use or control of the property, or any authorized agent or representative thereof, including but not limited to private security guards hired to patrol the property.

(2) As used in this section, "motor vehicle" shall include automobiles, trucks, vans, buses, recreational vehicles, campers, motorcycles, motor bikes, mo-peds, go-carts, all terrain vehicles, dune buggies, and all other vehicles propelled by motor.

(3) A property owner, lessee or other person having the right to the use or control of property may post signs or other notices upon a parking area,

driving area or roadway giving notice of this section and warning that violators will be prosecuted; provided, however, that the posting of signs or notice shall not be a requirement to prosecution under this section and failure to post signs or notice shall not be a defense to prosecution hereunder. (1982 Code, § 9-319)

15-134. Proof of compliance with financial responsibility law required. (7) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(8) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(9) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(10) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(11) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #1411, Feb. 2002 and Ord. #1412, Feb. 2002)

15-135. Careless driving. (1) It shall be unlawful for any person to drive any motor vehicle anywhere within this municipality in a careless, inattentive, negligent or imprudent manner, without due regard for the road and traffic conditions, including but not limited to the width, grade, curves, corners, traffic and use of the streets or other places or any other attendant circumstances, or without due regard for the safety of persons or property, or in such a manner that diverts the attentiveness of the driver of any other motor vehicle, bicyclist or pedestrian whether on public or private property.

(2) **Penalties.** Any person violating any of the provisions of this section shall, upon conviction thereof, be fined in an amount not to exceed fifty dollars (\$50.00) for each offense. For a first offense, such person may be eligible for driving safety school at the discretion of the city judge. (as added by Ord. #1530, Nov. 2006)

CHAPTER 2

SPEED LIMITS

SECTION

- 15-201. In general.
- 15-202. At intersections.
- 15-203. In school zones.
- 15-204. In congested areas.
- 15-205. In recreational areas.
- 15-206. Speed limit established for a portion of State Highway 55 Bypass.
- 15-207. Speed limit established for a portion of State Highway 56.
- 15-208. Speed limit established for a portion of Old Smithville Road and Old Smithville Highway.
- 15-209. Speed limit established for a portion of Lucky Road.
- 15-210. Speed limit established for a portion of Travis Trail.
- 15-211. Speed limit established for a portion of Chris Lane.
- 15-212. Speed limit established for a portion of Hale Court.
- 15-213. Speed limit established for a portion of Cascade Avenue and Bybee Branch Road.
- 15-214. Speed limit established for a portion of Willow Way.
- 15-215. Speed limit established for a portion of Caldwell Street.
- 15-216. Speed limits established within city limits.

15-201. 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. (1982 Code, § 9-301)

15-202. 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. (1982 Code, § 9-302)

15-203. In school zones.¹ Generally, pursuant to Tennessee Code Annotated, § 55-8-153, special speed limits in school zones 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

¹See Ord. #1156 (July 1995) of record in the office of the recorder.

violate any such special speed limit enacted and in effect in accordance with this paragraph.

When the board of mayor and aldermen 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 forty (40) minutes before the opening hour of a school or a period of forty (40) 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. (1982 Code, § 9-303)

15-204. 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. (1982 Code, § 9-304)

15-205. In recreational areas. It shall be unlawful to drive any motor vehicle within the confines of the parks and recreational areas of the city in excess of 15 miles per hour. (1982 Code, § 9-305)

15-206. Speed limit established for a portion of State Highway 55 Bypass. (1) A vehicular speed limit of a maximum 55 miles per hour be and is hereby established, designated and ordained, for a portion of State Highway 55 Bypass beginning at point where State Highway 55 joins U.S. Highway 70S which is immediately underneath the east overpass of U.S. Highway 70S and continues in a westwardly direction along both lanes of State Highway 55 Bypass to the McMinnville city limits which is located at the Oakland Branch.

(2) Any speed limit established by the State of Tennessee, Department of Transportation, on this portion of State Highway 55 Bypass and posted by signs shall supersede the limit set by this section.

(3) The City of McMinnville Street Department will be responsible for the erection of signs posting the above speed limit.

(4) Any person violating this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition thereto shall pay all costs. (Ord. #1063, Jan. 1993)

15-207. Speed limit established for a portion of State Highway 56. (1) A vehicular speed limit of a maximum of 40 miles per hour be and is hereby established, designated, and ordained on State Highway 56 North beginning at the Fairgrounds Road and going North on Highway 56 a distance of 3200 feet past Pike Hill Road.

(2) The City of McMinnville Street Department will be responsible for the erection of signs posting the above speed limit.

(3) Any person violating this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition thereto shall pay all costs. (Ord. #1096, Nov. 1993)

15-208. Speed limit established for a portion of Old Smithville Road and Old Smithville Highway. (1) A vehicular speed limit of a maximum of 35 miles per hour be and is hereby established, designated, and ordained on Old Smithville Road beginning at the entrance of Rosewood Apartments and going north on Old Smithville Highway to the intersection of old Smithville Highway and Lucky Road.

(2) The City of McMinnville Street Department will be responsible for the erection of signs posting the above speed limit.

(3) Any person violating this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition thereto shall pay all costs. (Ord. #1097, Nov. 1993)

15-209. Speed limit established for a portion of Lucky Road.

(1) A vehicular speed limit of a maximum of 35 miles per hour be and is hereby established, designated, and ordained on Lucky Road beginning at Old Smithville Highway and going north on Lucky Road and ending at a distance of 200 feet past the intersection of Lucky Road and Meadowbrook Drive.

(2) The City of McMinnville Street Department will be responsible for the erection of signs posting the above speed limit.

(3) Any person violating this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition thereto shall pay all costs. (Ord. #1098, Nov. 1993)

15-210. Speed limit established for a portion of Travis Trail.

(1) A maximum vehicular speed limit of 20 M.P.H. be and is hereby established on Travis Trail from its intersection with Viola Road (Hwy. 108) to the dead end of said Travis Trail as shown on attached map marked Exhibit "A"¹ which is made a part of this section by reference.

(2) The City of McMinnville Public Works Department will be responsible for erection of the 20 M.P.H. speed limit signs referred to above in accordance with state standards.

(3) Any person violating this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition shall pay all cost. (Ord. #1230, Dec. 1996)

¹See the attachment to Ord. No. 1230 (Dec. 1996) of record in the office of the recorder.

15-211. Speed limit established for a portion of Chris Lane.

(1) A maximum vehicular speed limit of 20 M.P.H. be and is hereby established on Chris Lane from its intersection with South Chancery Street to its intersection with Travis Trail as shown on attached map marked Exhibit "A"¹ which is made a part of this section by reference.

(2) The City of McMinnville Public Works Department will be responsible for erection of the 20 M.P.H. speed limit signs referred to above in accordance with State standards.

(3) Any person violating this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition shall pay all cost. (Ord. #1231, Dec. 1996)

15-212. Speed limit established for a portion of Hale Court.

(1) A maximum vehicular speed limit of 20 M.P.H. be and is hereby established on Hale Court from its intersection with Chris Lane to the dead end of said Hale Court as shown on attached map marked Exhibit "A"¹ which is made a part of this section by reference.

(2) The City of McMinnville Public Works Department will be responsible for erection of the 20 M.P.H. speed limit signs referred to above in accordance with state standards.

(3) Any person violating this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition shall pay all cost. (Ord. #1232, Dec. 1996)

15-213. Speed limit established for a portion of Cascade Avenue and Bybee Branch Road.

(1) A vehicular speed limit of a maximum of 30 miles per hour be and is hereby established, designated, and ordained on Bybee Branch Road beginning at the old city limits located approximately 200 feet west of Cascade Avenue and going west on Bybee Branch Road and ending 1,970 feet west of this point at the east right-of-way of Palmer Lane.

(2) The City of McMinnville Street Department will be responsible for the erection of signs posting the above speed limit.

(3) Any person violation this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition thereto shall pay all costs. (as added by Ord. #1346, March 2000)

15-214. Speed limit established for a portion of Willow Way. (1) A vehicular speed limit of a maximum of 30 miles per hour (mph) be and is hereby established, designated, and ordained on Willow Way, located in the Willows

¹See the attachment to Ord. No. 1231 (Dec. 1996) of record in the office of the recorder.

Subdivision, beginning at the intersection of Willow Way with Red Road and extending to the city limits of the City of McMinnville.

(2) The City of McMinnville Street Department will be responsible for the erection of signs posting the above speed limit.

(3) Any person violating this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition thereto shall pay all costs. (as added by Ord. #1368, Nov. 2000)

15-215. Speed limit established for a portion of Caldwell Street.

(1) A vehicular speed limit of a maximum of 30 miles per hour (mph) be and is hereby established, designated, and ordained for Caldwell Street beginning at the east edge of Chancery Street and proceeding eastwardly to the west edge of North Spring Street and Towles Avenue beginning at the east edge of Chancery Street and proceeding eastwardly to the west edge of Rebel Hill Street.

(2) The City of McMinnville Street Department will be responsible for the erection of signs posting the above speed limit.

(3) Any person violating this section shall upon conviction be fined not less than \$2.00 nor more than \$50.00 and in addition thereto shall pay all costs. (as added by Ord. #1387, June 2001)

15-216. Speed limits established within city limits. (1) A vehicular speed limit be established, designated and ordained for the following streets within the city limits of the City of McMinnville as shown on copy of map Exhibit A:¹

	<u>Street Name</u>	<u>Miles Per Hour</u>
a.	Smithville Hwy. From City Limits to Needmore Road	40
b.	Smithville Hwy. From Needmore Road to Hobson Street	35
c.	North Chancery Street From Hobson Street to Morford Street	35
d.	Belmont Street From 70S Bypass to Cadillac Lane	40
e.	Sparta Street From 70S Bypass to Morford Street	30
f.	Beersheba Street From City Limits to East Main Street	35

¹Available in the city recorder's office.

g.	Colville Street From East Main Street to South Chancery Street	35
h.	Viola Road From City Limits to South Chancery Street	40
i.	Vervilla Road From City Limits to Pioneer Lane	40
j.	Vervilla Road From Pioneer Lane to South Chancery Street	30
k.	South Chancery Street From Vervilla Road to Viola Road	45
l.	South Chancery Street From Viola Road to Rivercliff Road	40
m.	South Chancery Street From Rivercliff Road to Main Street	30
n.	Morrison Street From South Chancery to Railroad Tracks	45
o.	Morrison Street From Railroad Tracks to Westwood 6th	35
p.	Morrison Street From Westwood 6th to Main Street	30
q.	Hwy. 55 Bypass From City Limits to Angels Bridge	55
r.	Hwy. 70 Bypass From Angels Bridge to Sparta Street	45
s.	Hwy. 70 From City Limits to Campen Lane	45
t.	West Main Street From Campen Lane to Morford Street	35
u.	Main Street From Morford Street to Sparta Street	25
v.	Morford Street From Sparta Street to Main Street	25

(2) All other streets within the City of McMinnville will be thirty (30) miles per hour (mph) unless otherwise posted.

(3) The City of McMinnville Public Works Department will be responsible for the erection of signs posting the above speed limits.

(4) Any person violating this section shall upon conviction be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) and in addition thereto shall pay all costs. (as added by Ord. #1552, Jan. 2008)

CHAPTER 3**TURNING MOVEMENTS****SECTION**

15-301. Generally.

15-302. U-turns.

15-301. Generally. The board of mayor and aldermen may regulate, restrict, or prohibit the making of turning movements. The chief of police shall place and maintain markings, buttons, or signs giving notice of such regulations, restrictions, or prohibitions, and it shall be unlawful to disobey for fail to comply with any such markings, buttons, or signs. (1982 Code, § 9-308)

15-302. U-turns. No driver of a motor vehicle shall make a "U" turn upon any street of the city. (1982 Code, § 9-309)

CHAPTER 4

STOPPING AND YIELDING

SECTION

- 15-401. At "stop" signs.
- 15-402. At "yield" signs.
- 15-403. At traffic-control signals generally.
- 15-404. At flashing traffic-control signals.
- 15-405. At pedestrian-control signals.

15-401. 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. (1982 Code, § 9-201)

15-402. 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. (1982 Code, § 9-202)

15-403. 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. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the city, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(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. (1982 Code, § 9-203)

15-404. At flashing traffic-control signals. 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:

(1) 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.

(2) 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. (1982 Code, § 9-204)

15-405. 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. (1982 Code, § 9-205)

CHAPTER 5

PARKING

SECTION

- 15-501. Generally.
- 15-502. Angle parking.
- 15-503. Occupancy of more than one space.
- 15-504. Parking for washing, greasing, or repairing.
- 15-505. Parking for sale of vehicle.
- 15-506. Parking for sale of produce or merchandise.
- 15-507. Parking of trucks, etc., on residential streets.
- 15-508. Parking of vehicles on private property.
- 15-509. Parking in loading and unloading zones.
- 15-510. Obstructing traffic.
- 15-511. Maximum time limit.
- 15-512. Regulations on specific locations.
- 15-513. Time parking zones.
- 15-514. Presumption of responsibility for parking violation.
- 15-515. Handicapped parking.
- 15-516. Parking in emergency vehicle zones.
- 15-517. Heavy vehicle parking prohibited.
- 15-518. Posting signs in municipal parking lots.

15-501. Generally. Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are parallel to and within eighteen (18) inches 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 (18) inches of the left edge or curb of the street. (1982 Code, § 9-401)

15-502. 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 angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1982 Code, § 9-402)

15-503. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1982 Code, § 9-403)

15-504. Parking for washing, greasing, or repairing. 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. (1982 Code, § 9-404)

15-505. Parking for sale of vehicle. It shall be unlawful to park or leave standing on any street any motor vehicle for the purpose of offering such vehicle for sale. (1982 Code, § 9-405)

15-506. Parking for sale of produce or merchandise. (1) It shall be unlawful for any person to sell or offer for sale to the public any farm produce or products of the soil, or any meat, wood, coal, shrubbery, or merchandise of any kind or character from any vehicle which is parked upon any of the streets or public square of the city, except upon South College or Depot Street. This section shall not prohibit sale by hucksters from door to door.

(2) It shall be unlawful for any vehicle containing or loaded with any of the substances enumerated in subsection (1) to be parked for the purpose of sale, upon any of the streets or public square of the city, except upon South College or Depot Street. (1982 Code, § 9-406)

15-507. Parking of trucks, etc., on residential streets. It shall be unlawful for any person, firm, corporation, partnership, association, or other entity to park any tractor trailer truck, truck, bulldozer, pan, or other earth moving equipment or any trailer or road vehicle of over 18 feet in length on any of the residential streets of the city. A residential street is defined as any street, roadway, or alleyway where property is zoned either R-1 or R-2 under the zoning ordinance¹ of the city.

This section shall not apply to any tractor trailer rig which is temporarily parked at a residence for the purpose of loading or unloading of furniture, merchandise, or parcels and the length of stay does not exceed four hours, nor shall this section apply to any bulldozer, pan, or other earth moving equipment being used in connection with the lots or dwellings on said streets so long as said equipment is not parked for a period in excess of two hours. (1982 Code, § 9-407)

15-508. Parking of vehicles on private property. It shall be unlawful for any person to park a motor vehicle, including but not limited to, an automobile, a truck, a motorcycle, a motorscooter, a camper, and the like, on private property without the permission of the owner, with the following exceptions:

¹See the zoning ordinance in the office of the city recorder.

(1) On any business property where parking space is provided for customers or where parking is usual and customary in the common business practice of the organization during business hours and at all other hours unless the owner of said property and/or business has posted a sign in a conspicuous place or places fully legible giving notice that there shall be no parking on said area when the business is not open and in operation.

(2) When a motor vehicle is parked for emergency repairs. It shall, however, be incumbent upon the driver and/or owner of said vehicle to prove the emergency and the necessity for parking.

(3) When the vehicle parked on any private property displays a sign at least twelve inches (12") by nine inches (9") placed on the inside of a vehicle easily visible through the windshield above the steering wheel authorizing the parking of said vehicle and signed by the owner and/or lessee of the property. (1982 Code, § 9-408)

15-509. Parking in 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. (1982 Code, § 9-409)

15-510. Obstructing traffic. No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic. (1982 Code, § 9-410)

15-511. Maximum time limit. Notwithstanding any other provision in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley for more than seventy-two (72) hours without the prior approval of the chief of police. (1982 Code, § 9-411)

15-512. Regulations at specific locations. The board of mayor and aldermen may, from time to time, restrict or prohibit the standing or parking of vehicles on specified streets or parts of streets or in specified areas. Signs or markings shall be installed and maintained giving notice of such restrictions and prohibitions, and it shall be unlawful to violate or fail to comply with any such sign or marking. (1982 Code, § 9-412)

15-513. Time parking zones. (1) For the purpose of this section, the following terms shall have the meaning respectively ascribed to them here:

(a) "Operator" shall mean and include every person who shall operate, drive, or be in control of any vehicle upon any street of the City of McMinnville, Tennessee.

(b) "Park" shall mean the standing of any vehicle, whether occupied or not, upon any street or portion thereof for a period of time

greater than is reasonably necessary for the loading or unloading of persons or materials.

(c) "Street" shall mean and include any public street, avenue, road, boulevard, highway or other public place located in the City of McMinnville, Tennessee and established for the use of vehicles.

(d) "Vehicle" shall mean and include any device in, upon, or by which any person or property is or may be transported upon any street. Bicycles, motor bicycles, or mopeds are deemed vehicles.

(e) "Time parking zone" shall mean an area designated where a vehicle may be temporarily parked and allowed to remain for the period of time indicated on a sign located at the parking space or within the time parking zone, without the payment of a fee.

(2) The safety committee is hereby authorized and directed to establish zones to be known as "time parking zones" upon such streets of the city as the safety committee shall select. The selection shall be made at a regularly or specially called meeting of the safety committee, with notice of the meeting being given as required by the sunshine law of the State of Tennessee. The areas so designated by the safety committee shall be set out in minutes provided for and kept by the safety committee which shall be open to the public and shall be kept in the recorder's office in an area designated and used for the keeping of ordinances and resolutions of the City of McMinnville. The safety committee, from time to time, may add to, change, or abandon such time parking zones as it shall deem proper. In selecting, changing, or abandoning such time parking zones, the safety committee shall be governed by location, amount of traffic, the demand for parking space, the congestion of traffic, the use of the street, and all other traffic conditions that may exist.

(3) The safety committee shall by sign or other proper marking designate the time parking zone, and the time parking zone so established shall be controlled as to time allowed for parking of a vehicle as provided on signs or other marking showing the time limits.

(4) The safety committee shall have lines or markings painted or placed upon the curb or street adjacent to each vehicle parked along the side or next to any time parking zone sign shall park within the lines or markings so established.

When a parking space in any time parking zone is parallel with the adjacent curb or sidewalk, any vehicle parked in such parking space shall be parked so that the foremost part of such vehicle shall be along side and next to the time parking zone sign.

When a parking space in any particular time parking zone is diagonal to the curb or sidewalk, any vehicle parking in such parking space shall be parked with the foremost part of such vehicle directed at and next to such sign designating the time parking zone.

(5) The time parking zones provided for in this section shall control parking between the hours of 8:00 a.m. and 5:00 p.m. on all days except Sundays

and legal holidays and on proclamation of the mayor. There shall be no limit as to time parked in any of said zones on Sundays and holidays or on proclamation of the mayor.

(6) It shall be unlawful to park any vehicle or to permit a vehicle to remain parked in the time parking zone for a period longer than that designated on the sign or marking, between the hours designated thereon. (1982 Code, § 9-413)

15-514. Presumption of responsibility for parking violation. 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. (1982 Code, § 9-414)

15-515. Handicapped parking. (1) A handicapped driver shall mean any person who is qualified under the provisions of the Tennessee Code Annotated §§ 55-21-102 and 55-8-160 as amended and is issued registration, placard, or license plates bearing the stylized or wheelchair symbol or a disabled veteran symbol by the State Department of Revenue; and shall include the driver of a vehicle containing a handicapped passenger.

(2) The street department is hereby authorized to designate for the installation of appropriate signs, parking places for the exclusive use of handicapped drivers in those areas where a significant demand for parking by such persons may exist.

(3) Any merchant or owner of a privately owned parking lot for use by the general public is hereby authorized to designate by the installation of appropriate signs, parking spaces for the exclusive use of handicapped drivers.

(4) Where signs bearing the official wheelchair disabled symbol are erected designating reserved parking spaces for handicapped drivers, no person except handicapped drivers or qualified operators in the presence of and acting under the express direction of a handicapped driver shall stand or park a vehicle in any such space.

(5) Violators may be issued a parking ticket attached to the vehicle or a citation to court or the offending vehicle may be towed and impounded by the city police department.

(6) Anyone who violates the provisions of this section shall be guilty of a misdemeanor. (1982 Code, § 9-415)

15-516. Parking in emergency vehicle zones. No person shall park a vehicle in any zone, space, or lane designated by signs posted for use of fire or other emergency vehicles only, on public property and/or private property for public use. (1982 Code, § 9-416)

15-517. Heavy vehicle parking prohibited. It shall be unlawful for any person, firm, or corporation owning, operating or having control of any bus, truck, tractor trailer, truck powered unit, or equipment in excess of 26,000 gross vehicle weight (GVW) capacity, or any part thereof, to park the same upon any street, avenue, alley, public way or municipal parking lot.

The provisions of this section shall not be deemed to prohibit the lawful parking of such vehicles or equipment upon any street, avenue, alley, public way or municipal parking lot in the City of McMinnville, Tennessee, for the actual loading or unloading of goods, wares, or merchandise, provided, however, that "loading" and "unloading" as used in this section shall be limited to the actual time consumed in such operations. The provisions of this section shall not apply to the civic center parking area for vehicles or equipment used to transport people, animals, or equipment of authorized participants using the civic center.

Notwithstanding any of the prohibitive language contain in this section, the city administrator and/or the chief of police are empowered to grant special parking privileges to any person, firm, or corporation to park on any street, avenue, alley, public way or municipal parking lot not to exceed a forty-eight (48) hour duration, including but not limited to vehicles used by the Red Cross in its blood donation program, demonstration vehicle of the Tennessee Valley Authority, special event type vehicles, or vehicle promoting commerce, trade, business, educational or cultural improvements. This special permit granting the exception shall be in writing showing the date of issuance, date of expiration and location of authorized parking area and shall be posted on the right portion of the vehicle's windshield. If there is no windshield on the vehicle, the special permit shall be displayed at a place on the vehicle that is easily seen by a person outside of the said vehicle.

Any bus, truck, tractor trailer, truck powered unit, equipment or any part thereof parking upon any street, avenue, alley, public way or municipal parking lot in the City of McMinnville, Tennessee, in violation of this section may be towed away by the McMinnville Police Department, and the cost thereof shall be charged to the owner or operator or other person having control of such vehicle or equipment. The towing of a vehicle under this section shall be in addition to, rather than in lieu of, penalties available under the general penalty provision of this code. (as added by Ord. #1104, § 1, Feb. 1994)

15-518. Posting signs in municipal parking lots. The director of public works or other authorized person shall post signs in the municipal parking lots indicating that it is unlawful for any person, firm, or corporation to park any bus, truck, tractor trailer, truck powered unit, or equipment in excess of 26,000 gross vehicle weight capacity (GVW), or any part thereof, upon any municipal parking lot. (as added by Ord. #1104, § 1, Feb. 1994)

CHAPTER 6**ENFORCEMENT****SECTION**

- 15-601. Issuance of traffic citations.
- 15-602. Failure to obey citation.
- 15-603. Fine for overtime parking in time parking zone.
- 15-604. Towing of vehicles.
- 15-605. Deposit of license in lieu of bail.
- 15-606. Parking in emergency vehicle zones.
- 15-607. Impound lot.

15-601. 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. (1982 Code, § 9-501)

15-602. 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. (1982 Code, § 9-502)

15-603. Fine for overtime parking in time parking zone. (1) Any vehicle parked in a limited time parking zone in or at a space or spaces designed by a sign or signs which limit the time of parking in said zone or space beyond the time specified on said sign or signs for the said zone or space, a maximum of two (2) hours, shall upon conviction pay a fine for each violation (parking ticket received) within an eight (8) hour period in any single day as follows:

- | | | |
|-----|---------------------------------------|---------|
| (a) | First (1st) violation and conviction | \$ 6.00 |
| (b) | Second (2nd) violation and conviction | \$11.00 |
| (c) | Third (3rd) violation and conviction | \$16.00 |

¹State law reference

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

Each time period violation shall constitute a separate offense for which a ticket may be issued. (Ord. #1085, Sept. 1993, as replaced by Ord. #1321, April 1999, and Ord. #1514, Feb. 2006)

15-604. Towing of vehicles. (1) Parking violations. The police department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away or have removed and towed away by commercial towing service any car or other vehicle:

(a) Which is left unattended in a city parking lot in a location not designated for parking or in any space designated as a no parking zone, or

(b) Which blocks a fire hydrant or which is within 10 feet of the point on the curb line or edge of pavement closest to the fire hydrant, or

(c) Which is illegally parked in any place where such vehicle creates or constitutes a traffic hazard, or

(d) Which is parked in an area designated for use by physically handicapped individuals where such car does not display prominently on its exterior a sticker or other emblem which shows the car is owned or driven by a physically handicapped individual, or

(e) Which obstructs or may obstruct the movement of any emergency vehicles, or

(f) Which is left unattended in areas designated by the safety committee and marked as "No Parking-Tow Away Zone."

(2) Abandoned cars. (a) When a motor vehicle or other vehicle is left unattended on a street or highway in the city or on any city owned property for 72 hours, or on a city parking lot for 5 consecutive days, it shall be considered abandoned and its removal by a towing service may be authorized by order of the chief of the police department, the assistant chief, or the commissioner of safety of the City of McMinnville.

(b) When an abandoned, unattended, wrecked, burned, or partially dismantled motor vehicle or other vehicle is creating a traffic hazard because of its position in relation to the street or highway or its physical appearance is causing the impeding of traffic, its immediate removal from the street or highway by a towing service may be authorized by order of the police department of the City of McMinnville.

(3) Records. (a) When a motor vehicle is authorized to be towed away, the police department shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, vehicle trade name, manufacturer's name, body style, vehicle identification number, and license plate year and number displayed on the vehicle.

(b) The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing, and the name of the officer authorizing the tow.

(4) Reclaimer. Any reclaimer to police actions taken under this section shall be submitted in writing to the municipal court within 72 hours after tow-away. A hearing will be set by the municipal court judge at his pleasure but no later than 30 days after receipt and the respondent notified of the time and date of this hearing.

(5) Tow away costs. For any vehicle removed under authority of this section or towed away under authorization of this section, the owner of said vehicle will be responsible for all towing costs, it being presumed that the registered owner is the actual owner of the vehicle. (1982 Code, § 9-504)

15-605. Deposit of license in lieu of bail. Pursuant to Tennessee Code Annotated, §§ 55-50-801 through 55-50-805, any person lawfully possessed of a chauffeur's or operator's license heretofore issued to him or her by the Tennessee Department of Safety, or under the driving license laws of any other state or territory or the District of Columbia, is hereby given the option of depositing his or her chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his or her appearance in the city court in answer to a charge before the court which involves the violation of any municipal ordinance regulating traffic, except those ordinances the violation of which call for the mandatory revocation of an operator's or chauffeur's license for any period of time.

Whenever any person hereof deposits his or her chauffeur's or operator's license as provided, either the officer or the court demanding bail as hereinabove described shall issue said person a receipt for said license upon a form approved or provided by the Department of Safety, and thereafter said person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited, all as provided in Tennessee Code Annotated, §§ 55-50-801 through 55-50-805. The receipt shall be valid as a temporary driving permit for a period not less than that provided in Tennessee Code Annotated, § 55-50-726(b), and shall state such period of validity on its face.

The clerk or the judge of the court accepting the license shall thereafter forward to the Department of Safety the license of a driver deposited in lieu of bail if the driver fails to appear in answer to the charge filed against him, all as provided in Tennessee Code Annotated, §§ 55-50-801 through 55-50-805.

The procedures set out in Tennessee Code Annotated, §§ 55-50-801 through 55-50-805 shall be followed in the implementation of this section. (1982 Code, § 9-505)

15-606. Parking in emergency vehicle zones. The police department and all members thereof assigned to traffic duty are charged with the responsibility of enforcing parking restrictions outlined in § 15-516 with respect to public property and on private property for public use, where so requested by the owner or lessee of such private property. (1982 Code, § 9-506)

15-607. Impound lot. (1) There is hereby established a charge for the storage of all motor vehicles impounded in the city impound lot.

(2) After the first twenty-four (24) hours, a daily storage fee of six and no/100 dollars (\$6.00) shall be imposed.

(3) The owner of the impounded vehicle or his authorized agent may make application to take possession of the same and remove such vehicle from the city impound lot upon presentation of an application for certificate of title or a certificate of title, and upon payment of all charges which may have accrued for the storage of the vehicle. The officer in charge shall give a proper receipt for the fee paid.

(4) The chief of police, or his designated representative, may for good cause shown, waive the storage fee. (1982 Code, § 9-507)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. CONSTRUCTION OR REPAIR OF SIDEWALKS, CURBS, AND GUTTERS.
3. UTILITY POLES ON STREETS AND SIDEWALKS.
4. EXCAVATIONS AND CUTS.
5. OFFICIAL STREET MAP.
6. STREET ACCEPTANCE AND CONSTRUCTION STANDARDS CODE.
7. STORMWATER.
8. REGULATION OF NEWS RACKS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Superintendent.
- 16-102. Obstructions generally.
- 16-103. Outlet pipes at filling stations not to cross sidewalks.
- 16-104. Air conditioners not to drain on sidewalks.
- 16-105. Littering streets, alleys, sidewalks, etc., prohibited.
- 16-106. Duty of property owners to remove obstructions, filth, weeds, etc., from sidewalks.
- 16-107. Parading and congregating on streets and sidewalks generally.
- 16-108. Standing and congregating on streets and sidewalks so as to obstruct entrance to abutting property.
- 16-109. Gates not to open over street or sidewalk.
- 16-110. Cellar and vault doors and gratings on sidewalks not to be left open.
- 16-111. Rubbish, junk, and dismantled vehicles prohibited within 40 feet of center line of street or alley.

16-101. Superintendent. Superintendent election, terms and duties outlined in title 1, chapter 6 of this code. (1982 Code, § 12-101)

16-102. Obstructions generally. It shall be unlawful to obstruct the sidewalks, streets, or alleys of the city by placing upon or in same, boxes, barrels, machinery, agricultural implements, or any other object or objects except when receiving or forwarding goods, wares, or merchandise and then only for a reasonable time. (1982 Code, § 12-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Outlet pipes at filling stations not to cross sidewalks. It shall be unlawful for any person operating a garage or filling station to fill any car, truck, or other vehicle by permitting the outlet pipe from the supply tank to reach across a sidewalk. (1982 Code, § 12-103)

16-104. Air conditioners not to drain on sidewalks. It shall be unlawful for any person to install, operate, or maintain any air conditioner or like apparatus or appliance, so that the liquid drippings therefrom shall drain or fall upon any sidewalk of the city. (1982 Code, § 12-104)

16-105. Littering streets, alleys, sidewalks, etc., prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, sidewalk, park, or recreational area any refuse, glass, cans, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1982 Code, § 12-105)

16-106. Duty of property owners to remove obstructions, filth, weeds, etc., from sidewalks. It shall be unlawful for any person to permit the sidewalks or gutters in front of his place of business or residence to remain obstructed or in a filthy condition, or to fail to clean same within three (3) hours after having received written notice from the police or from any member of the board of mayor and aldermen, or to permit the sidewalks in front of his place of business or residence to grow up with weeds, grass, or other vegetation. It shall be the duty of all persons, upon receiving notice as above provided, to clean and remove from such sidewalks all weeds, grass, or other vegetation growing thereon immediately. (1982 Code, § 12-106)

16-107. Parading and congregating on streets and sidewalks generally. (1) Except as otherwise provided in this section, it shall be unlawful for any person to move, congregate, or parade in or upon the streets, alleys, or sidewalks of the city carrying banners, placards, signs, and the like, or otherwise to create a disturbance thereon, or to engage in speechmaking, preaching, singing, or otherwise making loud or unusual noises for the purpose of attracting the attention of other people in the normal pursuit of their daily living.

(2) It shall be unlawful for any person to conduct or participate in any parade, pedestrian or vehicular, upon the streets or sidewalks of the city without a special permit so to do issued in accord with this section.

(3) The board of mayor and aldermen may, in its discretion, grant special permission for parades or other activities mentioned in this section, when and if it appears that such parades or activities will not be distracting to the extent of unduly disturbing the usual and customary use of the streets and

sidewalks and people moving or conducting business thereon; provided, however, that before such permission is granted, or a special permit issued, a written application therefor shall be filed in the office of the mayor by the responsible head of the group or organization that seeks to conduct or participate in such parade or activity; and provided further, that the board of mayor and aldermen may require such regulations and limitations if it may reasonably deem proper. (1982 Code, § 12-107)

16-108. Standing and congregating on streets and sidewalks so as to obstruct entrance to abutting property. It shall be unlawful for any person to position himself or congregate on the streets or sidewalks of the city so as to block or impede entrance to any public or private property, store, place of business, or public or private office or building. (1982 Code, § 12-108)

16-109. Gates not to open over street or sidewalk. It shall be unlawful for the owner of any real estate abutting on any street, alley, or square, or the agent of such owner, to erect or maintain, or cause to be erected or maintained, any gate which opens over the sidewalk or pavement of any street, alley, sidewalk, or square. (1982 Code, § 12-109)

16-110. Cellar and vault doors and gratings on sidewalks not to be left open. It shall be unlawful for any person to leave open or cause to be left open any cellar or vault door or grating on any sidewalk. (1982 Code, § 12-110)

16-111. Rubbish, junk, and dismantled vehicles prohibited within 40 feet of center line of street or alley. (1) It shall be unlawful for any person to store, stack, pile, or otherwise place papers, bottles, rags, iron, rubbish, discarded or dismantled machinery, appliances, vehicles or parts thereof, or any other object within forty (40) feet of the center line of any street, highway, or alley of the City of McMinnville that would create an eyesore, health, fire, traffic, or safety hazard, or otherwise in any way be detrimental to the community.

(2) Any person who violates any provisions of this section shall be guilty of a misdemeanor and shall be subject to a fine in accordance with the general penalty clause for this code. In addition, the license of any junk dealer shall become void upon conviction for a violation of this section, and no junk dealer's license shall be issued to such convicted person.

(3) The city recorder shall issue a notice to a person who may be in violation of subsection (1) above. This notice shall contain a brief description of the violation and the location of the premises upon which the violation exists. This notice shall be delivered by the chief of police or by some officer designated by said chief of police or by U.S. mail and shall inform the recipient that at the

end of 15 days from the date of notice that a citation may issue for violation of subsection (1). (1982 Code, § 12-111)

CHAPTER 2

CONSTRUCTION OR REPAIR OF SIDEWALKS, CURBS, AND GUTTERS¹

SECTION

- 16-201. Duties of chairman of street and sanitation committee.
- 16-202. Approval required.
- 16-203. Notice to property owners to construct.
- 16-204. Time limit for construction by property owners.
- 16-205. Failure of property owners to construct.
- 16-206. Duty of property owners to repair.
- 16-207. Failure of property owners to repair.
- 16-208. Material.
- 16-209. Grades.
- 16-210. Width of sidewalks.
- 16-211. Sidewalk slope.
- 16-212. Sidewalk expansion joints.
- 16-213. Curbs and gutters to parallel street lines.
- 16-214. Width, slope, etc., of gutters.
- 16-215. Height and width of curbing; curbing to parallel gutters.
- 16-216. Contraction joints for curbs and gutters; curbs and gutters to conform to existing work.
- 16-217. Finishing of top surfacing.

16-201. Duties of chairman of street and sanitation committee.

The chairman of the street and sanitation committee shall see that all sidewalks, curbs, and gutters are constructed and repaired by property owners in accord with this chapter. If repairs are made or new sidewalks, curbs, or gutters are constructed by and under the order of the board of mayor and aldermen, it shall be the duty of the chairman of the street and sanitation committee to have the work done as ordered by the board. (1982 Code, § 12-201)

16-202. Approval required. No new sidewalks, curbs, or gutters shall be built in the city, or old ones repaired or re-laid, without the approval of the chairman of the street and sanitation committee. (1982 Code, § 12-202)

16-203. Notice to property owners to construct. At any meeting of the board of mayor and aldermen the board may designate along what streets,

¹Charter reference

See Acts of 1901, ch. 486, which is set out in the related private acts following the charter.

alleys, or sections of streets or alleys of public square that sidewalks, curbing, and gutters shall be built, extended, or connected by the adjacent owners of real estate. The board shall serve notice upon each such property owner, which shall be in writing and issued by the recorder and served on the owner by the chief of police, directing the property owner to construct or have constructed the sidewalks, curbs, or gutters adjacent to the real estate owned by him and according to the order of the board, to be constructed in accordance with the specifications set out in this chapter. (1982 Code, § 12-203)

16-204. Time limit for construction by property owners. The construction required by the notice referred to in § 16-203 shall be completed within thirty (30) days from the date of service of such notice. (1982 Code, § 12-204)

16-205. Failure of property owners to construct. If a property owner served with notice under this chapter fails or refuses to construct the sidewalks, curbs, and gutters in accord with such notice and within thirty (30) days after service of such notice, the board of mayor and aldermen shall have the power and authority to build or have built such sidewalks, curbs, and gutters and pay for the cost of same out of the common funds of the city. The expense of such construction shall be a lien and liability against the abutting property where such construction is done and, in addition thereto, such expense shall be a personal liability against the owner of such abutting property. The city shall have and enforce a lien upon such property which shall be for the amount of the expense incurred in the construction of the sidewalks, curbs, and gutters, and shall be enforced as provided by the laws of the state. (1982 Code, § 12-205)

16-206. Duty of property owners to repair. All persons owning real estate by or along which sidewalks, curbing and gutters have been built shall keep such sidewalks, curbing, and gutters in a state of good repair and, when it becomes necessary to repair or relay such sidewalks, curbing, or gutters, the repairing or relaying shall be done with a good quality of Portland cement as specified in this chapter, except that, if the repair required is less than twenty-five (25) per cent of the whole amount of the sidewalks, curbing, or gutters abutting any one piece of property, such repairs may be made of material of the same kind of which the sidewalks, curbing, or gutters were originally constructed. (1982 Code, § 12-206)

16-207. Failure of property owners to repair. If the owner of property abutting on any sidewalk, curb, or gutter needing repair fails to repair the same in accord with this chapter, the board of mayor and aldermen may designate the sidewalks, curbs, or gutters to be repaired, and the kind of repairs which may be done, at any board meeting, notify, in writing, the owner of such

abutting property that such repairs must be made within ten (10) days from service of such notice, which notice shall be signed by the recorder and served on the owner or his agent or attorney, by the police. In the event the repairs are not made within ten (10) days as required in such notice, the repairs may be made by the board, and the cost of the repairs so made shall become a personal liability against the owner and lien upon the property or lot, which shall be enforced as prescribed in § 16-205. (1982 Code, § 12-207)

16-208. Material. All sidewalks, curbs, and gutters shall be constructed of Portland cement compound of a six (6) bag mix per cubic yard. (1982 Code, § 12-208)

16-209. Grades. (1) Upon all streets which have been paved with a permanent or semipermanent surfacing or which have a permanent grade line established and adopted and on file at the office of the recorder, all sidewalks, curbing, and gutters shall be built or constructed on a grade parallel to such grade line or permanent surfacing line and on the grades and elevations shown on the street plans for the side of the street in question. If no such plans are available, gutters may be built lower than the street and parallel to it.

(2) Sidewalks, curbing, and gutters shall be constructed or built on smooth and regular grades, with no sharp changes of grades or lines and no steps. (1982 Code, § 12-209)

16-210. Width of sidewalks. (1) All new sidewalks constructed adjacent to any public street within the corporate limits or the alleys or public square therein shall be not less than ten (10) feet wide on Main Street from Chancery Street to the public square and around the same including, also, the east and west sides of the courthouse square and thence east on Main Street to Sparta Street.

(2) Upon all streets not named in subsection (1), new sidewalks shall be not less than five (5) feet wide, except as on such streets as the board of mayor and aldermen shall especially permit, by resolution, to be constructed with less width. (1982 Code, § 12-210)

16-211. Sidewalk slope. Sidewalks shall slope toward the curbing not less than one-fourth ($\frac{1}{4}$) inch and not more than one-half ($\frac{1}{2}$) inch for each foot of width and the side next to the curbing shall be higher than the same, not less than one-fourth ($\frac{1}{4}$) inch nor over one-half ($\frac{1}{2}$) inch for each foot it may be distant from such curbing or where the curbing would be if constructed. At driveways and entrances, the sidewalk may slope to the gutter. (1982 Code, § 12-211)

16-212. Sidewalk expansion joints. Sidewalks shall be constructed with expansion joints which shall not be over twelve (12) feet apart. (1982 Code, § 12-212)

16-213. Curbs and gutters to parallel street lines. Curbing and gutters shall be built on lines parallel to the lines established for the streets in question. (1982 Code, § 12-213)

16-214. Width, slope, etc., of gutters. Gutters shall be not less than eighteen (18) inches wide and shall have a slope toward the curbing of not less than one (1) inch in twelve (12) inches.

The total thickness of gutters shall be at least six (6) inches and constructed of the same materials and in the same proportions as required for sidewalks and shall preferably be built integral with gutters. (1982 Code, § 12-214)

16-215. Height and width of curbing; curbing to parallel gutters. Curbing shall be six (6) inches in height and not less than six (6) inches in width, unless the board of mayor and aldermen shall, by resolution, permit a higher curbing. The curbing shall be built parallel with the gutters at a uniform distance above them. (1982 Code, § 12-215)

16-216. Contraction joints for curbs and gutters; curbs and gutters to conform to existing work. Curbing and gutters shall be built with contraction joints, preferably six (6) and not over twelve (12) feet apart, and shall conform in style and form to curbing and gutters previously constructed in the same block provided the same does not conflict with this chapter. (1982 Code, § 12-216)

16-217. Finishing of top surfacing. The top surfacing of sidewalks, curbing, and gutters shall be neatly struck off and then finished with a trowel or wood float and then finally finished with a brush to prevent an excessively slippery surface. (1982 Code, § 12-217)

CHAPTER 3

UTILITY POLES ON STREETS AND SIDEWALKS

SECTION

- 16-301. Compliance with chapter.
- 16-302. General requirements.
- 16-303. Authority to install on outer edge of sidewalk.
- 16-304. Location in street between sidewalks prohibited.
- 16-305. Stump, wires, etc., to be removed when pole cut down.
- 16-306. Removal of poles on notice from board.
- 16-307. City to be held free from damages.
- 16-308. Violations.

16-301. Compliance with chapter. All persons who use the streets, alleys, or public square of the city in furnishing the public or citizens of the city electric lights, power, telegraph, or telephone service shall comply with the provisions of this chapter. (1982 Code, § 12-301)

16-302. General requirements. All poles located in the streets, alleys, or public square of the city and used by persons supplying electric light, power, telephone, or telegraph service shall be sightly and in good form and of sufficient height to carry all wires so that they will not obstruct the ordinary use of the public ways of the city and so located that they will not endanger adjacent property nor obstruct the pavements, streets, alleys, and public square in their ordinary use by the public, or require any cutting, topping, or mutilation of shade trees or other trees, except for necessity. (1982 Code, § 12-302)

16-303. Authority to install on outer edge of sidewalk. All persons who furnish telegraph, telephone, and electric light service within the corporate limits are hereby given permission to set poles for wires at the outer edge of the sidewalks on the streets; provided, however, before any such poles shall be set or reset, permission shall be first had and obtained from the board of mayor and aldermen as to where such pole may be set or reset and the kind and size of the pole to be used, in order that no unsightly and unusually large and rough poles may be used to the injury of the property of the city or its citizens. (1982 Code, § 12-303)

16-304. Location in street between sidewalks prohibited. It shall be unlawful for any person to set, place, or maintain any pole for wires, cables, or guy wires in any street of the city at any point between the sidewalks on each side of such street. (1982 Code, § 12-304)

16-305. Stump, wires, etc., to be removed when pole cut down. It shall be unlawful for any person to cut down any utility pole located in accord with this chapter and leave the stump in the ground or leave the pole, cross arms, wires, or insulators in the street or gutters of the street. (1982 Code, § 12-305)

16-306. Removal of poles on notice from board. If at any time it appears to the board of mayor and aldermen that any pole or wires are dangerous or in a position or place where they obstruct the public ways or use of public ways from private property, the owners of the pole or wires must remove the same within five (5) days after being given written notice so to do.

If any person maintaining any poles under this chapter ceases to furnish the service for which such poles are used for a period of three (3) months, he shall remove such poles upon notice so to do from the board of mayor and aldermen. (1982 Code, § 12-306)

16-307. City to be held free from damages. Any person owning or maintaining any pole located in accord with § 16-303 shall hold the city free from damages from erecting or maintaining such poles and wires. (1982 Code, § 12-307)

16-308. Violations. Any person violating any provision of this chapter shall, upon conviction, be fined in accordance with the general penalty clause for this code, for each offense, and the setting or resetting of each pole in violation of this chapter shall constitute a separate offense. (1982 Code, § 12-308)

CHAPTER 4

EXCAVATIONS AND CUTS¹

SECTION

- 16-401. Permit required.
- 16-402. Applications.
- 16-403. Fees.
- 16-404. Deposit or bond.
- 16-405. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-406. Restoration of streets, etc.
- 16-407. Insurance.
- 16-408. Time limits.
- 16-409. Supervision.
- 16-410. Driveway curb cuts.

16-401. 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 recorder is open for business and said permit shall be retroactive to the date when the work was begun. (1982 Code, § 12-401)

16-402. Applications. Applications for such permits shall be made to the recorder 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 recorder within twenty-four (24) hours of its filing. (1982 Code, § 12-402)

16-403. Fees. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents (\$.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1982 Code, § 12-403)

16-404. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder 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. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder 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 recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1982 Code, § 12-404)

16-405. 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. (1982 Code, § 12-405)

16-406. 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 recorder shall give notice to the person, firm, corporation, association,

or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the 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. (1982 Code, § 12-406)

16-407. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1982 Code, § 12-407)

16-408. 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 recorder. (1982 Code, § 12-408)

16-409. Supervision. The recorder 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. (1982 Code, § 12-409)

16-410. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge, and when two (2) or more adjoining driveways are

provided for the same property, a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1982 Code, § 12-410)

CHAPTER 5

OFFICIAL STREET MAP

SECTION

16-501. Purpose.

16-502. Procedure for adoption.

16-503. Amendments.

16-504. Location of official street map.

16-501. Purpose. Those streets for which the City of McMinnville is responsible for maintenance and repair shall be depicted on an Official Street Map.¹ (as added by Ord. #1192, § I, March 1996)

16-502. Procedure for adoption. The McMinnville Regional Planning Commission and Public Works Department shall review, approve, and certify the Official Street Map prior to its adoption by the board of mayor and aldermen. (as added by Ord. #1192, § I, March 1996)

16-503. Amendments. The Official Street Map may be amended as necessary by the McMinnville Board of Mayor and Aldermen, provided that such amendments are first reviewed, approved, and certified by the McMinnville Regional Planning Commission and Public Works Department. (as added by Ord. #1192, § I, March 1996)

16-504. Location of official street map. The Official Street Map shall be located in the office of the city recorder for the City of McMinnville and said map shall be the final authority as to the current status of a street as an official street of the City of McMinnville. (as added by Ord. #1192, § I, March 1996)

¹See Ord. #1193 (March 1996) of record in the office of the recorder for an ordinance to adopt an official street map.

CHAPTER 6

STREET ACCEPTANCE AND CONSTRUCTION STANDARDS CODE

SECTION

- 16-601. Purpose, authority, and jurisdiction.
- 16-602. General procedure for street acceptance.
- 16-603. Procedure for approval of streets not shown on an approved and recorded subdivision plat.
- 16-604. Procedure for approval of streets shown on an approved and recorded subdivision plat.
- 16-605. Procedure for board of mayor and aldermen approval.
- 16-606. Street construction standards.

16-601. Purpose, authority, and jurisdiction. (1) Purpose. The purpose of this code is to define the procedures and improvements that are required before the City of McMinnville, Tennessee will accept maintenance responsibility for a proposed public street. The procedures and minimum standards are necessary in order to provide fair and equitable treatment to all persons seeking to have a street accepted by the municipality, in order to insure that all streets accepted are suitable for public use, and in order to help protect McMinnville taxpayers from excessive and unnecessary expenditures for streets and street maintenance.

(2) Authority. These street acceptance and construction standards are adopted under the authority granted by section 6-2-201 of the Tennessee Code Annotated which entrusts the establishment and general supervision of streets to the City of McMinnville Board of Mayor and Aldermen; and by section 13-4-307 of the Tennessee Code Annotated which provides that the McMinnville Board of Mayor and Aldermen shall receive the recommendation of the appropriate planning commission prior to accepting or laying out any street.

(3) Jurisdiction. This code shall govern the acceptance of all streets for city maintenance within the corporate limits of the City of McMinnville, Tennessee. (as added by Ord. #1194, § 1, March 1996)

16-602. General procedure for street acceptance. The procedure for evaluation and acceptance of a street for city maintenance involves the McMinnville Regional Planning Commission, the McMinnville Public Works Department, and the McMinnville Board of Mayor and Aldermen.

There are two primary circumstances that may lead to a request for acceptance of a street for city maintenance. First, a resident or residents of the City of McMinnville may petition for the acceptance of an existing or new private street not shown on an approved and recorded subdivision plat. Second, a developer may petition for the acceptance of a proposed new street shown on

an approved and recorded subdivision plat. In both circumstances the street shall meet the construction standards specified in section 16-606 of this Street Acceptance and Construction Standards Code. (as added by Ord. #1194, § 1, March 1996)

16-603. Procedure for approval of streets not shown on an approved and recorded subdivision plat. All existing or new private streets not shown on an approved and recorded subdivision plat proposed for acceptance for city maintenance shall first be reviewed and approved by the McMinnville Regional Planning Commission prior to being submitted to the McMinnville Board of Mayor and Aldermen for adoption.

In order to secure the review and approval by the McMinnville Regional Planning Commission a preliminary street plan/survey shall be submitted to the regional planning commission. Upon completion of the required street improvements, said street improvements shall be inspected and approved by the public works department and a final street plan/survey shall be submitted to the regional planning commission.

(1) Preliminary street plan/survey requirements. (a) The preliminary street plan/survey shall be prepared by a licensed land surveyor or registered engineer and shall provide the following information:

- (i) Date, approximate north point, and graphic scale.
- (ii) Present tax map and parcel designation according to the official records in the office of the Warren County Property Assessor.
- (iii) Location sketch map.
- (iv) Names of adjoining property owners of record.
- (v) Any portion of the street lying within a floodable area.
- (vi) Location and dimensions of all exterior property boundary lines.
- (vii) Street right-of-way.
- (viii) Approximate location of street base and surfacing widths.
- (ix) Proposed street names.
- (x) Proposed location of street name signs and traffic control signs.
- (xi) Sufficient data to determine readily and to reproduce on the ground the location, bearing, and length of every street line. This shall include the radius, central angle and tangent distance for the center line of curved streets.

(b) At least seven (7) days prior to meeting at which it is to be considered, two (2) copies of the preliminary street plan/survey shall be submitted to the City of McMinnville Public Works Department and two (2) copies shall be submitted to the regional planning commission.

(c) The official submission of the preliminary street plan/survey to the regional planning commission is considered to be the first planning commission meeting at which the plan/survey is presented for consideration.

(d) Within thirty (30) days after the official submission of the preliminary street plan/survey, the regional planning commission shall approve, approve subject to modifications or disapprove the preliminary street plan/survey. If a plan/survey is disapproved, the reasons for such disapproval shall be stated in writing. If a plan/survey is approved subject to modifications, the nature of the required modifications shall also be included.

(e) The approval of the preliminary street plan/survey by the planning commission shall not constitute approval of any final street plan/survey.

(f) The approval of a preliminary street plan/survey shall terminate after one (1) years, provided however, that an extension of time can be applied for.

(2) Street profile/street construction plan requirements. If due to drainage, slope, soil conditions or other concerns, the McMinnville Public Works Department determines that a street profile/street construction plan is necessary, said profile/construction plan shall be prepared and submitted to the public works department. The street profile/street construction plan shall be prepared by a registered engineer and shall provide information as determined necessary by the McMinnville Public Works Department.

(3) Procedure for inspection and approval by the public works department. (a) Upon approval of the preliminary street plan/survey (and the street profile/street construction plan if determined necessary) construction of the required improvements shall be completed. The McMinnville Public Works Department shall be provided with an anticipated schedule for the clearing of the right-of-way, street grading, preparation of subgrade, installation of drainage system, installation of pavement base, and final street surfacing. Since the inspections need to be made periodically during the entire process, communication with the public works department is essential to make the process move as smoothly as possible.

(b) The McMinnville Public Works Department shall be notified at least twenty-four (24) hours in advance of the needed inspection on:

- (i) Clearing and stripping of right-of-way
- (ii) Construction of subgrade
- (iii) Installation of drainage improvements and construction of pavement base
- (iv) Construction of prime coat, binder surface, and final surface
- (v) Installation of street name and traffic control signs

(c) Upon completion of the required street improvements, the McMinnville Public Works Department shall make a final inspection. If the completed street is found to be in compliance with the standards for construction, the public works department director shall be authorized to sign the final street plan/survey.

(4) Final street plan/survey requirements. (a) The final street plan/survey shall be prepared by a licensed land surveyor or registered engineer; shall conform substantially to the approved preliminary street plan/survey; and in addition to the information required on the preliminary street plan/survey the final street plan/survey shall provide the following information:

- (i) Location of completed pavement base and surfacing widths
- (ii) Location of drainage ditches, tiles, pipes, culverts, etc.
- (iii) Approved street name
- (iv) Location of installed street name and traffic control signs
- (v) Location of buildings on adjoining properties and driveways which will enter into the street right-of-way
- (vi) Location of existing or proposed utilities located within the street right-of-way
- (vii) Location of driveway culverts, bridges or easements
- (viii) Name(s), seal(s) and address(es) of the licensed land surveyor or registered engineer responsible for the plan/survey preparation
- (ix) Appropriate certificates for approval (see section 16-603(5) of this code)

(b) Approval of the final street plan/survey shall not be given until completion and approval of the required street improvements. These improvements are to be completed in accordance with section 16-606 of this code. The required improvements must be approved by the McMinnville Public Works Department.

(c) The final street plan/survey shall be submitted at least seven (7) days prior to the meeting at which it is to be considered, with two (2) copies submitted to the office of the McMinnville Public Works Department and two (2) copies submitted to the regional planning commission.

(d) The official submission of the final street plan/survey to the regional planning commission is considered to be the first planning commission meeting at which the plan/survey is presented for consideration.

(e) Within thirty (30) days after the official submission of the final street plan/survey, the regional planning commission shall approve or disapprove the plan/survey. If the plan/survey is disapproved, the

grounds for disapproval shall be stated upon the records of the regional planning commission.

(5) Certifications. In all cases the following certificates shall be present and signed on the original final street plan/survey before the City of McMinnville Board of Mayor and Aldermen can consider a street for acceptance for city maintenance:

(a) Certificate of ownership and dedication. Certification showing that applicant is the land owner and dedicates the street and right-of-way for public use.

(b) Certificate of accuracy and precision. Certification by a licensed land surveyor or registered engineer of accuracy of plan/survey.

(c) Certification of street construction. Certification signed by the McMinnville Public Works Department Director certifying that the street has been constructed to the required standards.

(d) Certification of planning commission approval. Certification signed by the secretary of the McMinnville Regional Planning Commission certifying that the plan/survey has been approved by the planning commission. This certificate shall not be signed unless the three above certifications have been signed.

(6) Warranty of street improvements. (a) The petitioner shall warranty all street improvements for a period of one (1) year from the date of acceptance by the City of McMinnville.

(b) The Warranty of Street Improvements shall consist of an escrow account, letter-of-credit, or certified check.

(c) The amount of the warranty shall be not less than twenty-five percent (25%) of the cost of the street improvements accepted nor more than \$5,000.

(d) The Warranty of Street Improvements shall be submitted to the City of McMinnville prior to the submittal of the final street plan/survey for final approval. (as added by Ord. #1194, § 1, March 1996)

16-604. Procedure for approval of streets shown on an approved and recorded subdivision plat. All new streets shown on an approved and recorded subdivision plat proposed for acceptance for city maintenance shall be submitted, following the completion of all street improvements to the required standards, to the board of mayor and aldermen for adoption as provided in section 16-605 of this code. (as added by Ord. #1194, § 1, March 1996)

16-605. Procedure for board of mayor and aldermen approval.

(1) Upon completion of all street improvements to the required standards and following the approval of the final street plan/survey or final subdivision plat by the McMinnville Regional Planning Commission, the plan/survey or subdivision plat shall be submitted to the McMinnville Board of Mayor and Aldermen.

(2) The board of mayor and Aldermen shall be provided with a deed to the right-of-way proposed for dedication for public use. The deed shall be submitted by the board of mayor and aldermen to the McMinnville City Attorney for his review and approval.

(3) Upon approval by the city attorney of the deed to the right-of-way proposed for dedication for public use, the board of mayor and aldermen shall take formal action to approve the street and to authorize its addition to the Official McMinnville City Street Map.

(4) Upon approval of the board of mayor and aldermen, the applicant shall record the final street plan/survey and deed with the Warren County Register of Deeds. (as added by Ord. #1194, § 1, March 1996)

16-606. Street construction standards. All streets proposed for public dedication and acceptance by the City of McMinnville for city maintenance shall be constructed in accordance with the McMinnville Subdivision Regulations, Article III Design and Specifications, Section E, Streets-Construction Procedures and Specifications, as adopted on November 14, 1995. (as added by Ord. #1194, § 1, March 1996)

CHAPTER 7

STORMWATER ORDINANCE

SECTION

- 16-701. General provisions.
- 16-702. Definitions.
- 16-703. Land disturbance permits.
- 16-704. Storm water system design and management standards.
- 16-705. Post construction.
- 16-706. Waivers.
- 16-707. Existing locations and developments.
- 16-708. Illicit discharges.
- 16-709. Enforcement.
- 16-710. Penalties.
- 16-711. Appeals.

16-701. General provisions. (1) Purpose. It is the purpose of this ordinance to:

(a) Protect, maintain, and enhance the environment of the City of McMinnville and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(b) Enable the City of McMinnville to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR § 122.26 for stormwater discharges.

(c) Allow the City of McMinnville to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The codes enforcement office shall administer the provisions of this ordinance. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-702. Definitions. For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "As built plans" means drawings depicting conditions as they were actually constructed.

(2) "Best management practices" or "BMPs" are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of McMinnville, and that have been incorporated by reference into this ordinance as if fully set out therein. [NOTE: See § 16-704(1) for recommended BMP manual.]

(3) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(4) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(5) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(6) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct

or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(7) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

(8) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

(9) "Erosion and sediment control plan" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(10) "Hotspot" ("priority area") means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(11) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(12) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 16-703(3).

(13) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(14) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(15) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(16) "Municipal separate storm sewer system (MS4)" ("Municipal separate stormwater system") means the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(17) "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.

(18) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(19) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(20) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(21) "Person" means 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.

(22) "Priority area" means "hot spot" as defined in § 16-702(10).

(23) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(24) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(25) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.

(26) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

(27) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(28) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(29) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(30) "Stormwater management facilities" means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(31) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(32) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(33) "Stormwater utility" means the stormwater utility created by ordinance of the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality.

(34) "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.

(35) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(36) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(37) "Watershed" means all the land area that contributes runoff to a particular point along a waterway. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-703. Land disturbance permits. (1) When required. (a) Every person will be required to obtain a land disturbance permit from the codes enforcement office in the following cases:

(i) Land disturbing activity disturbs one (1) or more acres of land;

(ii) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acre of land;

(iii) Land disturbing activity of less than one (1) acre of land, if in the discretion of the codes enforcement office such activity poses a unique threat to water, or public health or safety;

(iv) The creation and use of borrow pits.

(2) Building permit. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.

(3) Exemptions. The following activities are exempt from the permit requirement:

(a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the Tennessee Department of Environment and Conservation.

(d) Additions or modifications to existing single family structures.

(4) Application for a land disturbance permit. (a) Each application shall include the following:

- (i) Name of applicant;
- (ii) Business or residence address of applicant;
- (iii) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
- (iv) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
- (v) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
- (vi) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
- (vii) Where the property includes a sinkhole, the applicant shall obtain from the Tennessee Department of Environment and Conservation appropriate permits.

(viii) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not preclude the codes enforcement office from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

(b) Each application shall be accompanied by:

(i) A sediment and erosion control plan as described in § 16-704(5).

(ii) A stormwater management plan as described in § 16-704(4), providing for stormwater management during the land disturbing activity and after the activity has been completed.

(iii) Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by resolution or ordinance.

(5) Review and approval of application. (a) The codes enforcement office, in conjunction with the public works and urban forestry departments will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within fifteen (15) days after receiving an application, the codes enforcement office shall provide one of the following responses in writing:

- (i) Approval of the permit application;
- (ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially

the objectives of this ordinance, and issue the permit subject to these conditions; or

(iii) Denial of the permit application, indicating the reason(s) for the denial.

(b) If the codes enforcement office has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the codes enforcement office. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the codes enforcement office.

(c) No development plans will be released until the land disturbance permit has been approved.

(6) Permit duration. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction.

(7) Notice of construction. The applicant must notify the codes enforcement office ten (10) working days in advance of the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the codes enforcement office. All inspections shall be documented and written reports prepared that contain the following information:

(i) The date and location of the inspection;

(ii) Whether construction is in compliance with the approved stormwater management plan;

(iii) Variations from the approved construction specifications;

(iv) Any violations that exist.

(8) Performance bonds. (a) The codes enforcement office, in conjunction with the public works and urban forestry department, may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. [Or plus a certain percentage of the total estimated costs.] The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the codes enforcement office.

Alternatively the codes enforcement office shall have the right to calculate the cost of construction cost estimates.

(b) The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The codes enforcement office will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the codes enforcement office. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-704. Stormwater system design and management standards.

(1) Stormwater design or BMP manual. (a) Adoption. The municipality adopts as its stormwater design and best management practices (BMP) manual the following publications, which are incorporated by reference in this ordinance as is fully set out herein:

- (i) TDEC Sediment and Erosion Control Manual
- (ii) TDEC Manual for Post Construction

(b) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the governing body of the municipality, upon the recommendation of the codes enforcement office, based on improvements in engineering, science, monitory and local maintenance experience. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) General performance criteria for stormwater management. Unless granted a waiver or judged by the codes enforcement office to be exempt, the following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

(c) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(d) Stormwater discharges from "hot spots" may require the application of specific structural BMPs and pollution prevention practices.

(e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the codes enforcement office to determine if they are subject to additional stormwater design requirements.

(f) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all stormwater facilities.

(3) Minimum control requirements. (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual unless the codes enforcement office has granted the applicant a full or partial waiver for a particular BMP under § 16-704(4).

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the codes enforcement office may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4) Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the codes enforcement office to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic Base Map: A topographic base map (2 foot contour intervals) to a suitable scale of the site which extends a minimum of one hundred (100) feet beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

- (iii) All other existing significant natural and artificial features;
- (iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;
- (v) Proposed structural BMPs;
- (vi) A written description of the site plan and justification of proposed changes in natural conditions may also be required.
- (b) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:
 - (i) A description of the design storm frequency, duration, and intensity where applicable;
 - (ii) Time of concentration;
 - (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
 - (iv) Peak runoff rates and total runoff volumes for each watershed area;
 - (v) Infiltration rates, where applicable;
 - (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
 - (vii) Flow velocities;
 - (viii) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
 - (ix) Documentation of sources for all computation methods and field test results.
- (c) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- (d) Maintenance and repair plan: The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions

or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(e) Landscaping plan: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(f) Maintenance easements: The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(g) Maintenance agreement:

(i) The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(ii) The maintenance agreement shall:

(A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the codes enforcement office. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(C) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs

consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the codes enforcement office.

(E) Provide that if the property is not maintained or repaired within the prescribed schedule, the codes enforcement office shall have the maintenance and repair completed, at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the codes enforcement office's cost of performing the maintenance shall be a lien against the property.

(iii) The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(h) Sediment and erosion control plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with § 16-704(5) below.

(5) Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be sealed by a registered professional engineer licensed in the state of Tennessee. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

(a) Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of two (2) feet or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(f) Approximate limits of proposed clearing, grading and filling.

(g) Approximate flows of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) Proposed drainage network.

(k) Proposed drain tile or waterway sizes.

(l) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs.

(n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(o) Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the codes enforcement office. Soil, sediment,

and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the codes enforcement office. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(p) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(q) A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-705. Post construction. (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the codes enforcement office is required before any performance security or performance bond will be released. The codes enforcement office shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the codes enforcement office.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the urban forestry office and the following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(b) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for in § 16-704(4)(g)(ii)(B).

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least ten (10) years. These records shall be made available to the codes enforcement office during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the codes enforcement office, after reasonable notice, may correct a violation, with city, state or contract labor of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the codes enforcement office shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the codes enforcement office may take necessary corrective action. The cost of any action by the codes enforcement office under this section shall be charged to the responsible party. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-706. Waivers. (1) General. Every applicant shall provide for post construction stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the codes enforcement office for approval.

(2) Conditions for waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

(b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater

management plan that has been approved by the codes enforcement office.

(c) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

(3) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the codes enforcement office that the waiver will not lead to any of the following conditions downstream:

(a) Deterioration of existing culverts, bridges, dams, and other structures;

(b) Degradation of biological functions or habitat;

(c) Accelerated streambank or streambed erosion or siltation;

(d) Increased threat of flood damage to public health, life or property.

(4) Land disturbance permit not to be issued where waiver requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater management plan. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-707. Existing locations and developments. (1) Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the codes enforcement office.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rapp, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:

(i) Ponds

(A) Detention pond

(B) Extended detention pond

(C) Wet pond

- (D) Alternative storage measures
- (ii) Constructed wetlands
- (iii) Infiltration systems
 - (A) Infiltration/percolation trench
 - (B) Infiltration basin
 - (C) Drainage (recharge) well
 - (D) Porous pavement
- (iv) Filtering systems
 - (A) Catch basin inserts/media filter
 - (B) Sand filter
 - (C) Filter/absorption bed
 - (D) Filter and buffer strips
- (v) Open channel
 - (A) Swale

(2) Requirements for existing problem locations. The codes enforcement office shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The codes enforcement office may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the stormwater utility under this section are subject to appeal under § 16-711 of this ordinance. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-708. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources,
 - (ii) Landscape irrigation or lawn watering with potable water,
 - (iii) Diverted stream flows,
 - (iv) Rising ground water,
 - (v) Groundwater infiltration to storm drains,
 - (vi) Pumped groundwater,
 - (vii) Foundation or footing drains,
 - (viii) Crawl space pumps,
 - (ix) Air conditioning condensation,
 - (x) Springs,
 - (xi) Non-commercial washing of vehicles,
 - (xii) Natural riparian habitat or wet-land flows,
 - (xiii) Swimming pools (if dechlorinated - typically less than one PPM chlorine),
 - (xiv) Fire fighting activities, and
 - (xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the codes enforcement office as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the codes enforcement office has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for

emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the codes enforcement office in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the codes enforcement office within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least ten (10) years. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-709. Enforcement. (1) Enforcement authority. The director of the codes enforcement office or his designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the director of the codes enforcement office finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the director may serve upon such person written notice of the violation. Within ten (10) days 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 director. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person 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 paragraphs (d) and (e) below.

(c) Show cause hearing. The director may order any person who violates this ordinance or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a

request that the violator 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.

(d) Compliance order. When the director finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the director finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- (i) Comply forthwith; or
- (ii) 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.

(3) Conflicting standards. Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-710. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the codes enforcement office, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the municipality declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the codes enforcement office of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the director of the codes enforcement office may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

- (c) The economic benefit gained by the violator;
 - (d) The amount of effort put forth by the violator to remedy this violation;
 - (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
 - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
 - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover;
- (a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
 - (b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.
- (5) Other remedies. The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

16-711. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the municipality's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the municipality's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the municipality shall be final.

(3) Appealing decisions of the municipality's governing body. Any alleged violator may appeal a decision of the municipality's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #1477, Jan. 2005, and replaced by Ord. #1496, July 2005)

CHAPTER 8

REGULATION OF NEWS RACKS

SECTION

- 16-801. Findings and purpose.
- 16-802. Definitions.
- 16-803. Establishment of fixed pedestal zones.
- 16-804. Permit requirement.
- 16-805. Location and placement of fixed pedestal news racks.
- 16-806. Compliance for previously placed or installed news racks within thirty (30) days.
- 16-807. Indemnification and insurance.
- 16-808. Maintenance, continuous use, repair and removal.
- 16-809. Enforcement.
- 16-810. Notices.

16-701. Findings and purpose. The Board of Mayor and Aldermen for the City of McMinnville hereby find as follows:

(1) The public rights-of-way historically have been used to circulate newspapers and other publications; and

(2) The unregulated placement and maintenance of individual news racks in the public rights-of-way interferes with the free and unimpeded use of such public rights-of-way, and threatens the health, safety and welfare of persons who use the public rights-of-way, including pedestrians, children, the aged, persons entering and leaving vehicles and buildings, drivers, persons performing essential utility, traffic control and emergency services, and persons with disabilities; and

(3) The unregulated placement of multicolored, broken, rusted and abandoned individual news racks, of various shapes and sizes in the public rights-of-way significantly detracts from the aesthetic character of surrounding areas; and

(4) The City of McMinnville is in the midst of a revitalization of the downtown "Main Street" business district in which numerous efforts and expense have been undertaken to aesthetically improve and beautify the downtown business district; and

(5) It is the legislative intent of the Board of Mayor and Aldermen for the City of McMinnville to maintain the developed character of the revitalized downtown business district and to maintain and enhance the aesthetic quality of the business district; and

(6) The regulations contained herein are not intended to prohibit or hamper speech which is protected by the First Amendment, but merely to regulate specific activities to ensure that the public ways remain safe and useful for their primary purpose and are attractive to tourists and the public; and

(7) There is a need for reasonable time, place and manner guidelines regarding the installation, placement, size, appearance and maintenance of news racks in the public rights-of-way.

Consistent with these findings, it is the purpose of this section to promote the health and safety of users of the public rights-of-way and to enhance the aesthetics of the city in a manner which may utilize news racks as a means of distribution of newspapers and other publications, so as to do the following:

- (a) Provide for pedestrian and driving safety and convenience;
 - (b) Restrict unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress into and egress from any residence or place of business, or from a the street to the sidewalk by persons exiting or entering parked or standing vehicles;
 - (c) Provide for the safety of the public and property during windstorms and other inclement weather;
 - (d) Provide reasonable access for the use and maintenance of poles, posts, traffic a signs or signals, hydrants and mailboxes;
 - (e) Replace, remove or relocate individual news racks that have created visual blight on the public rights-of-way or unreasonably detracted from the aesthetics of adjacent businesses, landscaping and other improvements;
 - (f) Maintain and protect the values of surrounding properties;
- and
- (g) Reduce unnecessary exposure of the public to personal injury and property damage.

It is also the purpose of this section to ensure a diversity of viewpoints consistent with the First Amendment to the United States Constitution, and to treat all newspapers and other lawful publications equally, regardless of their content. (as added by Ord. #1519, April 2006)

16-702. Definitions. As used in this section the following terms shall have the meanings ascribed to them as follows:

(1) "Abandoned" means any individual news rack or compartment of a modular news rack that does not contain the newspaper or other publication specified therefor for more than four (4) consecutive days for a daily publication, eight (8) consecutive days for a weekly publication, sixteen (16) consecutive days for a biweekly publication, thirty-two (32) consecutive days for a monthly publication or sixty-four (64) consecutive days for a bimonthly publication.

(2) "Compartment" means the individual space within a modular fixed pedestal news rack that dispenses one (1) newspaper or other publication, including the door, coin return mechanism and associated hardware.

(3) "Director" means the director of the department of public works.

(4) "Fixed pedestal district" means and includes all public rights-of-way located within the area of the McMinnville Downtown Economic Revitalization Project, Phase I and any subsequent Phases undertaken by the

City of McMinnville in which the distribution of newspapers and other publications through news racks is restricted to fixed pedestal units installed in the place, style and manner set out herein.

(5) "Fixed pedestal permit" means a permit issued to a newspaper or other publication authorizing the placement of the newspaper or other publication in one or more spaces in a fixed pedestal news rack in a fixed pedestal zone.

(6) "Fixed pedestal news rack" means an assembly which is of a type, design or model approved by the director and which contains one or more self-service or coin-operated boxes, containers, storage units or other dispensers installed, used or maintained for the display and sale or free distribution of newspapers and other publications and which is attached to the public sidewalk, street or public right-of-way in accordance with this section.

(7) "Fixed pedestal zone" means those areas which the City of McMinnville has designated within the fixed pedestal district, as sites upon which newspapers and other publications may be distributed in fixed pedestal units installed in the style and manner required herein. The fixed pedestal zones are more specifically described in § 16-703(3) below.

(8) "Freestanding news rack" means any unmanned, self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display, sale or distribution, with or without charge, of newspapers or other publications, and which is not a fixed pedestal unit authorized under this section.

(9) "Newspapers and other publications" means and includes newspapers, periodicals, advertising circulars, and all other printed materials which may be distributed through the use of news racks.

(10) "Owner" means the person or other legal entity which either owns a news rack or is responsible for its operation and maintenance.

(11) "Person" includes an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or other group or combination acting as a unit.

(12) "Public rights-of-way" means and includes all highways, streets, alleys, sidewalks and other real property or easements, which are owned or controlled by the city or county, including the areas above and below such easements, and which are reserved or used for pedestrian or vehicular traffic.

(13) "Publisher" means the person or other legal entity selling, displaying or distributing newspapers or other publications in a news rack. (as added by Ord. #1519, April 2006)

16-803. Establishment of fixed pedestal zones. (1) Fixed pedestal units restricted. No person shall place, operate or maintain a fixed pedestal news rack on any public street, public sidewalk or public right-of-way within the fixed pedestal district except in accordance with this section. Any unauthorized

fixed pedestal news rack which in whole or in part is attached to or rests upon a public street, public sidewalk or public right-of-way located in the fixed pedestal district shall be subject to impoundment pursuant to § 16-709(7). The owner of any unauthorized fixed pedestal news rack properly impounded by the director shall be responsible for restoring the sidewalk to its original condition by replacing the concrete or other material under the direction and authorization of the director.

(2) Freestanding news racks prohibited. No person shall place, operate or maintain a freestanding news rack on any public street, public sidewalk or public right-of-way located in the fixed pedestal district. Any freestanding news rack which in whole or in part rests upon a public street, public sidewalk or right-of-way located in the fixed pedestal district shall be subject to impoundment pursuant to subsection 16-709(7).

(3) Fixed pedestal zones. Consistent with the findings and purposes stated above, the Board of Mayor and Aldermen of the City of McMinnville have designated two (2) fixed pedestal zones within the fixed pedestal district which is defined as the area encompassed by the McMinnville Downtown Economic Revitalization Project. The fixed pedestal zones are located as follows:

(a) At the corner of Court Square and Morford Street in front of the post office.

(b) Between 216 and 222 East Main Street. (as added by Ord. #1519, April 2006)

16-804. Permit requirement. (1) Fixed pedestal permit. Permits are necessary to facilitate the regulation and inspection of news racks for the purposes set forth herein. No person may place any newspaper or other publication in any fixed pedestal news rack in a fixed pedestal zone without having first obtained from the director a fixed pedestal permit authorizing placement of the newspaper or other publication in the news rack.

(2) Duty to obtain permit. Each publication seeking access to a news rack in a fixed pedestal zone shall apply to the city for a fixed pedestal permit for each news rack box in each fixed pedestal news rack to which the newspaper or other publication seeks access. The permit holder shall be responsible for payment of all fees due under this section. Once a permit has been granted pursuant to this section, and if the permit has not subsequently been revoked, the permit holder shall not be required to renew or reapply for another fixed pedestal permit for the same news rack box.

(3) Application. Application for a fixed pedestal permit shall be made in writing on a form and in a manner provided by the city and filed with the director.

(4) Fees. The director is hereby authorized and directed to collect an application fee for each newsrack box in the amount of twenty-five dollars (\$25.00). This fee shall be used to cover the costs for application, permitting and

inspection required by this section and shall not be a revenue-generating source for the city.

(5) Permit issuance. The director shall issue the fixed pedestal permit unless the director finds one or more of the following grounds for denial to exist, in which case the director shall deny the application for a permit. The grounds for denial of an application for a fixed pedestal permit are:

- (a) The application is incomplete;
- (b) The required fee was not submitted;
- (c) Adequate space in the fixed pedestal zones is unavailable;
- (d) The proposed fixed pedestal news rack does not meet the requirements set out herein.

(6) Violations. Failure to comply with any requirement of this section shall constitute a violation of this section.

(7) Permit revocation. Any fixed pedestal permit issued pursuant to this section confers a non-transferable revocable privilege upon the permit holder. The permit shall be revoked if the news rack is abandoned. Further, the mayor and board of aldermen may at any time, in its exclusive legislative discretion, elect to repeal or amend this section and thereby render null and void any permits issued pursuant to this section.

(8) Content-based discrimination prohibited. The director shall not consider the content or viewpoint of the material to be distributed through fixed pedestal units in administering or enforcing this section. (as added by Ord. #1519, April 2006)

16-705. Location and placement of fixed pedestal news racks.

(1) General. The director shall monitor the installation and maintenance of fixed pedestal news racks in fixed pedestal zones.

(2) Physical characteristics and appearance of fixed pedestal news racks. (a) The maximum height of any news rack shall be fifty-seven inches (57"). The maximum width of any such news rack shall be ninety-seven inches (97"). The maximum depth of any such news rack shall be seventeen inches (17").

(b) News racks shall be constructed of metal materials with clear plastic or glass panels through which publications therein are viewed and which are unbroken and reasonably free of cracks, dents, blemishes and discoloration.

(c) News racks shall be black.

(d) News racks may not display any cardholders or advertising, but may display the trademark name or logo of the newspaper or other periodical being dispensed therefrom on the sides and back of the news rack, but only within an area the maximum height of which is two (2) inches, and only in letters or symbols which are white or off-white in color.

(e) Each news rack used to sell newspapers or other written matter shall be equipped with a coin return mechanism in good working order so as to permit a person to secure a refund in the event that the news rack malfunctions.

(f) The owner or person in control of each news rack shall affix his or her name, address, telephone number, and e-mail address, if any, on the news rack in a readily visible location and shall inform the director if the information changes from that which was included in the application for permit. In no event shall a post office box be considered an acceptable address for purposes of this paragraph.

(g) Within a fixed pedestal zone, the following limitations shall apply. A news rack shall not be placed, installed or maintained:

- (i) Within fifteen (15) feet of any fire hydrant;
- (ii) In any driveway or within close proximity of any driveway;
- (iii) In any curb cut designed to facilitate street access by disabled persons or within two (2) feet of any such curb;
- (iv) Within a crosswalk area;
- (v) Within a corner area or within five (5) feet of any corner area;
- (vi) On any surface where such installation or maintenance will cause damage to or will interfere with the use or maintenance of any public utilities, including but not limited to water/sewer pipes, telephone or electrical cables, or natural gas pipes;
- (vii) On, in or over any part of the roadway of any public street;
- (viii) Within any portion of the sidewalk, unless five (5) feet of sidewalk width is preserved for unobstructed pedestrian passage;
- (ix) On any area of lawn, flowers, shrubs, trees or other landscaping, or in such a manner that use of the news rack would cause damage to such landscaping; or
- (x) Where placement, installation, or maintenance endangers the safety of persons or property.

(3) In addition to the location restrictions set forth in subsection (2)(g) above, news racks shall be limited in number to no more than five (5) per fixed pedestal zone.

(4) No news rack shall be located directly in front of any display window of any building abutting the sidewalk, without the written consent of the person or entity legally in occupancy or otherwise in control of the premises on which the display window is located. If such consent is withdrawn, any news rack placed in front of a display window shall be removed within fourteen (14) days of the date of written notice to the owner of such news rack.

(5) Every news rack shall be placed or installed in a manner that will ensure that such news rack cannot be tipped over. (as added by Ord. #1519, April 2006)

16-806. Compliance for previously placed or installed news racks within thirty (30) days. Where a news rack has been placed or installed before the effective date of this chapter, the owner or person in control of such news rack shall, within thirty (30) days after such effective date, comply with the provisions of this chapter. (as added by Ord. #1519, April 2006)

16-807. Indemnification and insurance. (1) Each person who owns or controls a news rack placed or installed on any sidewalk shall indemnify and hold harmless the City of McMinnville from any and all losses, costs, damages, expenses, claims, judgments or liabilities that city may incur by reason of the placement, installation or maintenance of such news rack, except to the extent such damage results from the negligence or intentional act of the City of McMinnville.

(2) Each person who owns or controls a news rack on any sidewalk shall maintain a general liability insurance policy naming the City of McMinnville as an additional insured for the specific purpose of indemnifying and holding harmless the City of McMinnville from and against any and all losses, costs, damages, expenses, claims, judgments, or liabilities that result from or arise out of the placement, installation and/or the maintenance of any news rack. Each such person shall keep in force such policy or policies of general liability insurance during such time as he or she continues to place or install or maintain any news rack under the terms of this section. The minimum limits of such insurance coverage shall be no less than three hundred thousand dollars (\$300,000.00) combined single limit for bodily injury, including death, and property damage. An insurance certificate demonstrating compliance with the requirements of this subdivision must be maintained and readily available for public inspection by the person who owns or controls such insured news rack. Should said policy be called upon to satisfy any liability for damages covered by said policy, the policy must be of such a nature that the original amount of coverage is restored after any payment of damages under the policy. Failure to maintain satisfactory insurance policy pursuant to this subdivision or failure to maintain an insurance certificate demonstrating compliance shall be deemed a violation of this section. (as added by Ord. #1519, April 2006)

16-808. Maintenance, continuous use, repair and removal. (1) Any person who owns or is in control of a news rack shall properly and regularly maintain it and shall use his/her best efforts to repair, restore or replace news racks damaged or defaced by intentional or unintentional acts, including ordinary wear and tear, graffiti or other unauthorized writing or drawing.

(2) Any person who owns or is in control of a news rack shall use best efforts to ensure that each news rack under his or her ownership or control is not used as a depository for the placement of refuse and shall be required to remove any refuse placed within such news rack within forty-eight (48) hours of receipt of a notice of such condition.

(3) Any news rack that has been damaged or is in need of repair shall be repaired, replaced or removed by the owner or person in control of such news rack within seven (7) business days of receipt of a notice of such condition. If such news rack has been damaged, or if it is in a state of disrepair, such that it constitutes a danger to persons or property, it shall be made safe within a reasonable time following receipt of notice of such condition.

(4) Any damage to property of the City of McMinnville resulting from the placement, installation, maintenance or removal of a news rack shall be repaired promptly by the owner or person in control of such news rack. If a news rack is removed from its location on a sidewalk, upon removal, withdrawal or abandonment of any news rack, the owner shall be liable for all costs and expenses, including reasonable attorney fees, associated with restoring the right-of-way to the condition that would have existed had the news rack not been installed. (as added by Ord. #1519, April 2006)

16-809. Enforcement. (1) Whenever any news rack is found to be in violation of any provision of §§ 16-803 through 16-808 above, inclusive, the director may issue a notice of correction specifying the date and nature of the violation and may send written notification, by regular mail, to the owner or person in control of the news rack. In addition, the director may send a copy of such notice of correction to a person designated by such owner or person to receive such notice. However, failure to send a copy will not extend the time period within which such owner or other person is required by any provision of this section to take action. Except as otherwise provided for the removal of refuse in § 16-808(2), such person shall within seven (7) business days from the date of receipt of notification via regular mail cause the violation to be corrected. For the purposes of this section, a notice of correction shall be deemed to have been received three (3) days from the date on which it was mailed by the director.

(2) If an owner or other person in control of a news rack fails to comply with a notice of correction issued pursuant to § 16-809(1) herein, or an order by the director to remove served pursuant to § 16-809(4) herein, a notice of violation/citation shall be served on such owner or person in control of such news rack.

(3) If the director issues a notice of violation/citation for a violation of this section and the violation is not remedied within seven (7) days of receipt of the citation, the director is authorized to provide for the removal of the news rack and any contents thereof to a place of safety. For purposes of this subparagraph, a citation shall be deemed to have been received three (3) days

from the date on which it is mailed. If such news rack and any contents thereof are not claimed within thirty (30) days after their removal by a person entitled to their return, they shall be deemed to be abandoned and may be disposed of in the manner provided by law regarding abandoned property, and the owner or person in control shall be liable to the City of McMinnville for the costs of removal and storage and shall be subject to a civil penalty pursuant to § 16-809(9). News racks and the contents thereof that are removed pursuant to this subparagraph shall be released to the owner or other person lawfully entitled to possession upon payment of the costs for removal and storage and any civil penalty.

(4) The director may, upon notice, serve an order upon the owner or other person in control of a news rack requiring such person to remove or cause to be removed such news rack within seven (7) business days of receipt of such order where such removal is required because the site or location at which such news rack is placed is used or is to be used for public utility purposes, public transportation, or public safety purposes, or when such news rack unreasonably interferes with construction activities in nearby or adjacent buildings or if removal is required in connection with a capital project or improvement. If such person does not remove such news rack within seven (7) business days of receipt of such order, the provisions contained in this section regarding issuance of a notice of violation and alternatives for removal, storage, abandonment, disposal and release shall apply.

(5) Notwithstanding any other provision of law to the contrary, if a news rack has been deemed to have been abandoned, the director is authorized to provide for the removal of such news rack and it may either be sold at public auction, the proceeds thereof being paid into the general fund, used or converted for use by the, department or any other department or agency of the City of McMinnville, or otherwise disposed of.

(6) Where emergency circumstances exist and the director gives notice to the owner or other person in control of a news rack to remove such news rack, such person shall comply with such notice. For the purposes of this section, emergency circumstances shall mean circumstances which present an imminent threat to public health or safety.

(7) If any owner or other person in control of a news rack does not remove such news rack when directed to do so pursuant to the provisions of this section, or if circumstances are such that public safety requires the immediate removal of a news rack and it is not reasonable to give the owner or other person in control of such news rack notice prior to the removal, the director may provide for the removal of such news rack to a place of safety. Such owner or other person in control of such news rack may be charged with the reasonable costs of removal and storage payable prior to the release of such news rack and the contents thereof.

(8) If an owner or other person in control of a news rack fails to comply with a notice issued pursuant to this section to remove such news rack, a notice

of violation/citation shall be served on such owner or person in control of such news rack. If the news rack has been removed by the City of McMinnville pursuant to § 16-809(3), such notice of violation/citation shall be served immediately after removal. If such news rack and any contents thereof are not claimed within thirty (30) days after the date of removal by a person entitled to their return, such news rack and any contents thereof shall be deemed abandoned and may be either sold at a public auction, the proceeds thereof being paid into the general fund, used or converted for use by the department of public works or otherwise disposed of.

(9) Any owner or other person in control of a news rack found to be in violation of any provision of this chapter shall be liable for a civil penalty in the amount of fifty dollars (\$50.00) per day for each news rack determined to be in violation.

(10) The director shall remove or cause to be removed from any sidewalk for a period of three (3) consecutive months, every news rack and the contents thereof under the ownership or control of any person who repeatedly violates any provision or provisions of this section. For purposes of this section, a person shall be deemed to have repeatedly violated this section if such person has violated the provisions of this section five (5) or more times within any six (6) month period. For purposes of this subsection, a person shall also be deemed to have repeatedly violated this section if such person has failed to accurately demonstrate that such person repainted or used best efforts to remove graffiti and other unauthorized writing, painting, drawing, or other markings or inscriptions as required by such section three (3) times in any two-year period. In the event that the director removes or causes to be removed all news racks and the contents thereof under the ownership or control of any person based upon this paragraph, such person shall be permitted to replace all such news racks at the locations from which they were removed upon payment in full of all outstanding civil penalties imposed for violations of this section and the reasonable costs of removal and storage, provided that such news racks meet the requirements of this section. If any news racks or contents thereof removed pursuant to this paragraph are not claimed within thirty (30) days after the expiration of the three-month removal period, such news racks or the contents thereof shall be deemed abandoned and may be either sold at public auction, the proceeds thereof being paid into the general fund, used or converted for use by the department of public use or otherwise disposed of. (as added by Ord. #1519, April 2006)

16-810. Notices. In giving any notice or correction or serving any director's order required under this section, except as otherwise provided by law, the director may rely on the validity of any address posted on the news rack pursuant to § 16-805(2)(f) as the address of the owner or other person in control of a news rack, and shall provide such notice by regular mail. (as added by Ord. #1519, April 2006)

TITLE 17**REFUSE AND TRASH DISPOSAL¹****CHAPTER**

1. REFUSE.
2. TRANSFER STATION.

CHAPTER 1**REFUSE²****SECTION**

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. Disposal to be at approved site.
- 17-104. Storage; use of containers.
- 17-105. Specifications as to size, kind and type of cart.
- 17-106. Requirements for commercial containers.
- 17-107. Location of containers.
- 17-108. Issuance of building permit; certificate of occupancy.
- 17-109. Maintenance of containers or loss.
- 17-110. Removal of defective containers.
- 17-111. Wet refuse to be drained and wrapped.
- 17-112. City collectors not responsible for removal from ground; preparation of lawn clippings, tree trimmings, leaves, packing material, building or construction debris, etc. for collection.
- 17-113. Littering around or damaging garbage containers.
- 17-114. Littering; handbills, etc.
- 17-115. Collection under jurisdiction of public works department.
- 17-116. Frequency of collection.
- 17-117. Permit for private collectors required; exception.
- 17-118. Exceptions to permit requirement.
- 17-119. Collection vehicles.
- 17-120. Deposit in streams, storm sewers, etc., prohibited.
- 17-121. Burning.
- 17-122. Authority of director; methods of collection generally.

¹Municipal code reference

Property maintenance regulations: title 13.

Emergency operations plan: title 20, chapter 5.

²See Ord. #1007 of record in the recorder's office for a landfill disposal agreement between the City of McMinnville and Sanifill of Tennessee.

- 17-123. Fees for solid waste collection.
- 17-124. Fees to be added to water bill; failure to pay.
- 17-125. Scavenging.
- 17-126. Special conditions.
- 17-127. City collectors not to enter private buildings to remove solid waste.
- 17-128. Exemptions.
- 17-129. Violations.

17-101. Definitions. As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

(1) "Business" shall include, but not be limited to, wholesale, retail, professional or service establishments including, but not limited to, professional offices, restaurants, markets, all schools, hospitals, houses of worship, institutions, research facilities, offices and gas stations. This term shall also include anyone who is required to have a business license under the State of Tennessee.

(2) "Refuse collector" shall mean any person, firm, corporation, or political subdivision that collects, transports, or disposes of any refuse within the corporate limits of the city.

(3) "Garbage" shall include all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, from all public and private residences and establishments, but excluding recognizable industrial byproducts.

(4) "Other residents" shall mean persons not residents in the corporate limits of the city but residing in Warren County Tennessee.

(5) "Person" shall mean any and all persons, natural or artificial, including any individual, business, firm, entity, or association, and municipal or private corporation organized or existing under the laws of this state or any other state, and any governmental agency or county of this state.

(6) "Refuse" shall include garbage, rubbish, ashes, and all other putrescible and nonputrescible, combustible and noncombustible materials originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling and sale of produce, and other similar unwanted materials from all residences and establishments, public and private, but shall not include sewage body wastes, or recognizable industrial byproducts.

(7) "Residence" shall mean a private dwelling serviced by a water meter and includes a unit in a multiple family dwelling, apartment, or trailer serviced by a water meter; or an abode of more than two rooms.

(8) "Residents" shall mean the owner or occupant of a residence, dwelling, structure or other premises within the corporate limits of the city.

(9) "Rubbish" shall include all nonputrescible waste materials, except ashes, from all public and private residences and establishments. However, the term does not include liquid or solid hazardous waste.

(10) "Solid waste" shall mean garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage or other significant pollutants in water effluent, dissolved materials in irrigation return flows, or other common water pollutants liquid or solid hazardous waste.

(11) "Solid waste disposal" shall mean the process of placing, confining, compacting, or covering solid waste except when such solid waste is for reuse, removal, reclamation, or salvage.

(12) "Solid waste disposal system" shall mean the relationship of the coordinated activities of and resources for processing and disposal of solid wastes within a common geographical area and under the supervision of any person or persons engaging in such activities.

(13) "Solid waste processing" shall mean an operation for the purpose of modifying the characteristics or properties of solid waste to facilitate transportation or disposal of solid wastes including, but not limited to, incineration, composting, separation, grinding, shredding, and volume reduction.

(14) "Director" shall mean the director of public works. (1982 Code, § 8-201, as replaced by Ord. #1373, March 2001)

17-102. Premises to be kept clean. All persons within the corporate limits of the city are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in § 17-104 of this chapter. (1982 Code, § 8-202, as replaced by Ord. #1373, March 2001)

17-103. Disposal to be at approved site. No person shall deposit or permit to be deposited any garbage or refuse matter which will be offensive, noxious, or dangerous to the public health, on his own premises or any premises under his or her control, or deposit such garbage or refuse matter in any back lot, vacant lot, public ground, park, alley street, floodplain, or areaway, or in any other place within the city, except as is otherwise provided by law. The disposal of refuse in any quantity by any person in any place, public or private, within the city, other than at a site designated by the director is expressly prohibited. (1982 Code, § 8-203, as replaced by Ord. #1373, March 2001)

17-104. Storage; use of containers. Each owner, occupant, or other responsible person using or occupying any building, house, structure, premises or grounds within the corporate limits of the city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of suitable containers for the storage of such refuse between intervals of collection. If accumulation of residential waste regularly exceeds the capacity of the 96 gallon container provided by the city, the public works director or his designee

may assign the resident an additional 96 gallon container, at such fees or charges as the board of mayor and aldermen may establish from time to time by municipal order. When a commercial container (i.e. dumpster) is found to be the best way of collecting garbage for a commercial customer or an apartment complex, only the commercial customer or the apartment residents who pay for the containers shall have the privilege to use that commercial container. Other persons who are found to be using city commercial containers will be in violation of this chapter. (1982 Code, § 8-204, as replaced by Ord. #1373, March 2001)

17-105. Specifications as to size, kind and type of cart. Residential or commercial structures for which a building permit was issued after January 31, 2001 will be required to purchase access to the city automated garbage collection system through a deposit for the use of the cart. The cart shall remain the property of the city. No other cans, containers, and/or plastic bags will be picked up by the city. (1982 Code, § 8-205, as replaced by Ord. #1373, March 2001)

17-106. Requirements for commercial containers. All automatic loading containers (i.e. dumpsters) may be required to have a concrete pad with dimensions not less than nine (9) feet by fifteen (15) feet and such pad shall be located so that the refuse collector's truck can pick up the commercial container from the front. This requirement shall not prohibit the owner of any place of business using such devices to store the container at another location when not spotted for pickup. (1982 Code, § 8-206, as replaced by Ord. #1373, March 2001)

17-107. Location of containers. Refuse containers required by this chapter shall be placed in a convenient, accessible location for pick-up as directed by the director of public works. (1982 Code, § 8-207, as replaced by Ord. #1373, March 2001)

17-108. Issuance of building permit; certificate of occupancy. Before building permits shall be issued for construction of commercial buildings and multiple dwelling units, plans for adequacy, location and accessibility of solid waste containerization and storage facilities must be approved by the director of public works. No certificate of occupancy shall be issued by the codes enforcement officer for said premises until the director of public works approval of these facilities has been obtained. (1982 Code, § 8-208, as replaced by Ord. #1373, March 2001)

17-109. Maintenance of containers or loss. Residential waste container(s) and commercial waste container(s) shall both remain the property of the city at the premises where delivered. The premises' owner(s) or occupant(s) and/or commercial establishment shall maintain their assigned waste container(s) and the surrounding area in a clean, neat, and sanitary

condition. Residential and commercial waste container(s) shall be cleaned and disinfected on a regular basis by the premises' owner(s) or occupant(s) or business utilizing the waste container. Container(s) which are damaged, destroyed, or stolen through neglect, improper use, or abuse by the occupant - users shall be replaced by the city at the expense of the occupants or the owner of the residence. Container(s) which are damaged in the course of normal and reasonable usage or which are damaged, destroyed through no abuse, neglect, or improper use of the occupant(s) users or residence owner shall be repaired or replaced at the sole discretion of the city, at no charge to the occupant-users or residence owners. The containers shall not be damaged, destroyed, defaced, or removed from the premises by any person. Markings and identification devices on the containers, except as placed or specifically permitted by the city, are expressly prohibited and shall be regarded as damage to the containers. (1982 Code, § 8-209, as replaced by Ord. #1373, March 2001)

17-110. Removal of defective containers. The director or his designated agent is hereby authorized to confiscate and remove refuse containers from the premises of residences and business establishments, public and private, when such containers are not suitable for the healthful and sanitary storage of refuse. Such containers shall be removed and disposed of at a place and in a manner designated by the department of public works only after the owner of such containers has been fully notified of such impending action. (1982 Code, § 8-210, as replaced by Ord. #1373, March 2001)

17-111. Wet refuse to be drained and wrapped. Wet refuse must be drained of all liquids and wrapped in paper or other equivalent material prior to placing it in the storage container. (1982 Code, § 8-211, as replaced by Ord. #1373, March 2001)

17-112. City collectors not responsible for removal from ground; preparation of lawn clippings, tree trimmings, leaves, packing material, building or construction debris, etc., for collection. In no case will it be the responsibility of the city refuse collectors to shovel or pick up from the ground any accumulations of refuse, including lawn clippings, tree trimmings, leaves, brush, and packing material from areas around approved cans, plastic bags or commercial containers. It shall be the responsibility of the property owner or agent to keep these areas clear of these materials. All such materials shall be placed in containers of the type described in this chapter or cut and baled, tied, bundled, stacked, or packaged so as not to exceed thirty-six (36) inches in length and fifty (50) pounds in weight unless mechanical pick up is provided by the city and in no case will the city be responsible for removal of building or construction debris. (1982 Code, § 8-212, as replaced by Ord. #1373, March 2001)

17-113. Littering around or damaging garbage containers. It shall be unlawful for any person to scatter litter around a container, to overfill a container, to overflow any city container or damage any city container. Litter means knowingly and negligently to place, throw, pile or overfill a garbage container or city container with any matter on public or private property with the intent to leave the same. Damage means the denting, burning, or in any way defacing a garbage container or city container. (1982 Code, § 8-213, as replaced by Ord. #1373, March 2001)

17-114. Littering; handbills, etc. No person shall place on, deposit or leave exposed in any private yard, private driveway, or on any public street or public place in the city contiguous thereto, any handbills, or unsolicited newspaper, or unsolicited material, after the owner or occupant of the private property has made a written request that any such person, corporation, or business refrain from so doing. (1982 Code, § 8-214, as replaced by Ord. #1373, March 2001)

17-115. Collection under jurisdiction of public works department. The collection of refuse within the city shall be under the jurisdiction of the public works department. (1982 Code, § 8-215, as replaced by Ord. #1373, March 2001)

17-116. Frequency of collection. The director shall establish residential and commercial collection routes, days of the week, and hours for collection. All refuse shall be collected at sufficient frequent intervals to prevent the occurrence of nuisances and public health problems. (1982 Code, § 8-216, as replaced by Ord. #1373, March 2001)

17-117. Permit for private collectors required; exception. It shall be unlawful for any person or entity to engage in the business of, or offer the services of, garbage or refuse collection without having first obtained a permit for private collection from the City of McMinnville Public Water Works Department and a business license from the City of McMinnville. (1982 Code, § 8-217, as replaced by Ord. #1373, March 2001)

17-118. Exceptions to permit requirement. Nothing in this chapter shall prevent:

(1) Any licensed junk dealer, and/or organization, profit or non-profit, from collecting refuse recognized as having salvage value, or that can be recycled or otherwise transformed into a usable substances, provided such dealer, or organization may collect such salvageable, or recyclable, material only from premises where he has written invitation by the occupant.

(2) Any refuse producer or owner from selling or giving salvageable or recyclable materials to licensed junk dealers and/or organization for collection, removal, and disposal. (1982 Code, § 8-218, as replaced by Ord. #1373, March 2001)

17-119. Collection vehicles. The collection of refuse within the city shall be by means of vehicles with beds constructed of impervious materials and easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and public thoroughfares. Provisions shall be made to prevent the scattering of refuse over the streets and thoroughfares, by effective coverings or closed truck beds. (1982 Code, § 8-219, as replaced by Ord. #1373, March 2001)

17-120. Deposit in streams, storm sewers, etc., prohibited. It shall be unlawful for any person to dump or deposit refuse in any form into any stream, ditch, storm sewer, or other drain within the city. (1982 Code, § 8-220, as replaced by Ord. #1373, March 2001)

17-121. Burning. It shall be unlawful for any person to burn any garbage within the city. No other refuse shall be burned within the city, except in compliance with § 7-209 of the municipal fire code. (1982 Code, § 8-221, as replaced by Ord. #1373, March 2001)

17-122. Authority of director; methods of collection generally. All collection of refuse within the city shall be by methods approved by the director. Such methods shall include the maximum practical rodent, insect and nuisance control at the place of collection.

The director shall have the authority to make such other reasonable rules and regulations concerning individual collection and refuse disposal and transporting refuse over city streets.

The director shall also have the authority to determine the type, size, location and number of commercial containers required to adequately and safely collect and/or store refuse. (1982 Code, § 8-222, as replaced by Ord. #1373, March 2001)

17-123. Fees for solid waste collection. (1) A mandatory fee shall be imposed on all residences for solid waste collection services without regard to whether the service is actually used by the occupants or residents. One cannot avoid paying a city garbage collection fee imposed by this chapter by hauling one's own garbage.

(2) A fee will be charged all residences using city garbage service or having access to such use, said fee to be charged as follows:

A maximum of (2) two carts per residence will be issued.

Residential Rate Breakdown:

\$8.50 garbage disposal fee + \$2.50 brush collection + \$1.00 junk collection fee = \$12.00

<u>Number of containers</u>	<u>Fees</u>
1	\$12.00
2	\$12.00 + 7.50 = 19.50

*Note: Additional carts require a one (1) time deposit for use of the cart established by the street and sanitation committee from time to time.

(3) Indigent residents - Any person regardless of age who is the head of the household and who meets the eligibility criteria under the State of Tennessee Property Tax Relief Direct Credit Program for ownership/residency and income shall pay one dollar (\$1.00) per month less than the established fee for residential garbage service as set out under section (2) above.

(4) (a) All commercial users, including any business as defined in § 17-101(1) of this chapter, using city garbage service or having access to such shall be charged a minimum of nineteen dollars and eighty cents (\$19.80) per month, per establishment. The only exemption to the user fee is specified in § 17-128 of this chapter.

(b) For each business, commercial, or industrial activity where the use of an individual commercial container (i.e. roll-out cart(s)) is required, the following charges will apply.

A maximum of three (3) carts per commercial establishment will be issued.

Note: Additional carts require a one (1) time deposit for the use of each cart established by the street and sanitation committee from time to time.

Commercial (96-Gallon Roll-out Cart(s))

<u>Number of Containers</u>	<u>Fees</u>
1	19.80
2	19.80 + 7.50 = 27.30
3	19.80 + 7.50 + 7.50 = 34.80

For each business, commercial, or industrial activity where the use of an individual commercial container (i.e. dumpster) is required, the following charges will apply:

COMMERCIAL COLLECTION

Number of Services Per Week
For Single Container

Cost Per Single Container
Collection Per Month-Loose Yards

4 CUBIC YARDS

1	79.75
2	139.70
3	197.45
4	258.50
5	328.10
6	380.05

6 CUBIC YARDS

1	90.20
2	155.10
3	222.75
4	290.95
5	356.95
6	424.05

8 CUBIC YARDS

1	100.50
2	175.45
3	250.80
4	322.30
5	398.20
6	473.55

(5) Multiple unit residences - residents of apartment houses or multiple unit residences shall be charged the individual residential solid waste collection charge for each apartment or unit.

(6) Trailers or mobile homes - within the corporate limits of the city which are used for single family residences only shall be charged at the same rate as a residence.

(7) Additional pickups - commercial (dumpster) customers requiring additional pickups shall be charged the once per week collection rate times the number of containers picked up. Commercial (roll-out cart) customers using the cart system requiring additional collections will be charged an additional disposal fee based on the number of carts. The fees shall be set by the street

and sanitation committee from time to time. (1982 Code, § 8-223, amended by Ord. #1100, April 1994; replaced by Ord. #1100, Oct. 1996; Ord. #1329, Sept. 1999; and Ord. #1373, March 2001, and amended by Ord. #1499, June 2005, Ord. #1545, July 2007, Ord. # 1568, June 2008, and Ord. #1591, July 2009)

17-124. Fees to be added to water bill; failure to pay. The City of McMinnville shall collect the sums provided for herein along with and as part of the monthly water bill. In the event that any residence, business, or industry is not receiving a water bill, they may be billed by separate billing. (1982 Code, § 8-224, as replaced by Ord. #1373, March 2001)

17-125. Scavenging. When garbage or rubbish has been set out on a public street or alley for collection, no person except employees of the department of public works or of a duly authorized private hauler, shall remove any garbage or rubbish. The same shall apply to commercial containers provided by the city for commercial collection.

Ownership of garbage and refuse material set out for collection and/or deposited at the municipal disposal grounds shall be the property of the city; and scavenging, scattering, collection and pilfering the garbage and refuse in any way is prohibited except by written permission from the director. (1982 Code, § 8-225, as replaced by Ord. #1373, March 2001)

17-126. Special conditions. (1) Contagious disease refuse. The removal of wearing apparel, mattresses, other bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision of the director. Such refuse shall not be placed in containers for regular collection.

(2) Inflammable or explosive refuse. Highly inflammable or explosive materials, poisons, acids and caustics shall not be placed in containers for regular collection but shall be disposed of at the expense of the owner or possessor as directed by the director of public works.

(3) Construction refuse. Quantities of refuse materials resulting from the repair, excavation, construction or destruction of buildings, such as, but not limited to, broken concrete, dirt, sand, gravel, trees, tree limbs, wooden waste or any other nonputrescible materials, shall be removed and disposed of by the contractor, owner or person having same in charge by a method satisfactory to the director.

(4) Industrial wastes. Solid wastes resulting from industrial processes shall be disposed of by the owner or possessor thereof under methods outlined by the director of public works.

(5) Dead animals. Dead animals shall not be placed in garbage containers for regular collection. Such animals will be removed by special pickup on call to the public works department.

(6) Materials not prepared in accordance with this chapter. Unless refuse shall be prepared for collection as provided in this chapter, it will be

considered not acceptable for collection. (1982 Code, § 8-226, as replaced by Ord. #1373, March 2001)

17-127. City collectors not to enter private buildings to remove solid waste. City refuse collectors are prohibited from entering upon any privately owned structures, or portion of any such premises, for the purpose of removing refuse for collection. (1982 Code, § 8-227, as replaced by Ord. #1373, March 2001)

17-128. Exemptions. Any commercial customer may exempt himself or herself from the user's fee by providing the director with a document stating that solid waste collection services are not needed. A document will be provided to the commercial customer by the director. (1982 Code, § 8-228, as replaced by Ord. #1373, March 2001)

17-129. Violations. It shall be unlawful to willfully fail to pay the fee assessed by this chapter after the date said fee is delinquent, or to violate any other portion of this chapter. It shall also be unlawful to willfully use the city's solid waste services and fail to pay for said services. (1982 Code, § 8-229, as replaced by Ord. #1373, March 2001)

CHAPTER 2

TRANSFER STATION

SECTION

17-201. Rules of operation of transfer station.

17-202. Transfer station fees.

17-203. Yard waste disposal fees.

17-204. Definition yard waste.

17-205. Special materials.

17-201. Rules of operation of transfer station. The following rules and regulations shall apply to the operation of the transfer station.

(1) No one shall be permitted on the premises unless it is for the purpose of discharging refuse.

(2) Refuse shall be deposited only where directed by the supervisor on duty.

(3) Scavenging shall not be permitted.

(4) The hours of operation and cost of disposal shall be posted at the entrance of the premises. (Ord. #1034, May 1992)

17-202. Transfer station fees. The fee for use of the transfer station shall be fifteen and no/100 dollars (\$15.00) per cubic yard of all noncontract users. The solid waste disposal fee per cubic yard is as follows:

Transfer Station cost - cubic yard	\$9.10
Landfill Tipping Fee - cubic yard	4.90
State Fees/Surcharge - cubic yard	.25
Bedford Co. PVG. Tax or fee - cubic yard	<u>.75</u>
Total Cost Per Cubic Yard	\$15.00

The landfill tipping fees, state fees and Bedford County Privilege Tax or fee may change from time to time. The extraordinary levies, which include the tipping fee, the state surcharge, and inspection fee, and the Bedford County privilege tax or fee per cubic yard is subject to change and any increase incurred by the city will be passed to and collected from the users of the transfer station. An increase in the said extraordinary levies may be added by the authority of the city administrator, but in no event shall the transfer station cost per cubic yard be increased or decreased without the approval of the board of mayor and aldermen of the City of McMinnville, Tennessee.

The City of McMinnville may agree to a lower transfer station cost than set out herein, provided that a contractual agreement is executed by the parties

after approval is obtained from the board of mayor and aldermen. Such contractual agreement shall contain provisions which guarantees a minimum quantity of solid waste will be brought to the transfer station for a specified period of time. (Ord. #1034, May 1992, as replaced by Ord. #1105, sec. 1, Feb. 1994)

17-203. Yard waste disposal fees. The fee for disposal of yard waste at the transfer station site shall be fifteen and no/100 dollars (\$15.00) per ton. (as added by Ord. #1336, Nov. 1999)

17-204. Definition yard waste. Shall include brush, limbs, chips and untreated lumber. Logs shall not exceed six (6) feet in length or four (4) feet in diameter. (as added by Ord. #1336, Nov. 1999)

17-205. Special materials. A special rate shall be established for materials which, because of their weight or characteristics, i.e., foam, sponge rubber, or roofing shingles, use more space or reduce the quantities which may be hauled in transfer trailers. This rate shall be established and may be charged from time to time by the street and sanitation committee. (as added by Ord. #1336, Nov. 1999)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWERS GENERALLY.
2. ENFORCEMENT RESPONSE PLAN.
3. GENERAL WASTEWATER REGULATIONS.
4. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
5. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WATER AND SEWERS GENERALLY

SECTION

- 18-101. Office of superintendent of water and wastewater created.
- 18-102. Deposit required.
- 18-103. Water rates.
- 18-104. Sewer rates.
- 18-105. Water tapping fees.
- 18-106. Sewer tapping fees.
- 18-107. Fire hydrant rentals.
- 18-108. Inspection fees.
- 18-109. Billing; enforcing payment.
- 18-110. Service charges.
- 18-111. Waste hauler fees.

18-101. Office of superintendent of water and wastewater created. There is hereby created the office of superintendent of the water and

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

Service outside city limits: title 20.

For complete details relating to the water interconnection mutual agreement between Warren County Utilities District, West Warren-Viola Utilities District and the City of McMinnville see Ord. #1312, February 16, 1999, in the office of the city recorder. For complete details relating to water and sewer line extensions see Ord. #1488, April 12, 2005, as amended by Ord. #1333, Oct. 4, 1999, in the office of the city recorder.

wastewater department for the City of McMinnville, Tennessee, to be elected, beginning in 1970, by the board of mayor and aldermen at the first regular meeting in June, thenceforth to serve at the will of the board. The superintendent of the water and wastewater department, in addition to serving at the will of the board, shall also be subject to dismissal at any time for dereliction of duty, conflicts of interest, malfeasance, or any other actions giving rise to dismissal for cause. The superintendent of the water and wastewater department shall operate and be controlled by chapters 1 and 2 of this title. (1982 Code, § 13-201)

18-102. Deposit required. Any person, firm, partnership, establishment, or corporation applying for water and sewer services from the water and sewer system of the City of McMinnville, Tennessee, must first place on deposit with the city recorder an amount of money set forth below before the requested services can be furnished. Monies held by the recorder will be returned to the customer upon discontinuance of service, less amount required to satisfy, in full, the final billing at the place where service was discontinued and for which deposit was rendered. The provisions of this section do not apply to customers who are connected to the system prior to the effective date of this section; however, when such person moves to another location within the system, a deposit will be required before services will be connected at the new location. Amount of deposit required will be as follows:

Industrial or commercial. Any amount equal to a 30 day usage as determined by the city recorder and/or the water and sewer superintendent, based upon records of previous usage of the business or industry or a reasonable estimate based upon usage of other comparable industries or businesses. Apartments where utilities are furnished by the owner will be considered commercial.

Residential. An amount equal to a 60 day usage determined by the recorder and/or the water and sewer superintendent based upon records of previous usage or reasonable estimate of other comparable residents. (1982 Code, § 13-202)

18-103. Water rates. The following monthly water rates shall apply to all residential or industrial/commercial establishments:

Residential Water Rates

<u>Number of gallons</u>	<u>Rates inside city limits</u>	<u>Rates outside city limits</u>
All eligible customers	4.00 minimum	9.00 minimum
Plus all gallons 0 and above	.399 per 100	.549 per 100
	or any fractional part thereof	or any fractional part thereof

Industrial/Commercial Water Rates

<u>Number of gallons</u>	<u>Rates inside city limits</u>	<u>Rates outside city limits</u>
All eligible customers	4.00 minimum .434 per 100	9.00 minimum .572 per 100
Plus 1 to 50,000 gallons	or any fractional part thereof .391 per 100	or any fractional part thereof .485 per 100
Plus all over 50,000 gallons	or any fractional part thereof	or any fractional part thereof

(1982 Code, § 13-203, replaced by Ord. #1337, Dec. 1999; Ord. #1360, July 2000; Ord. #1375, March 2001; and Ord. #1429, Sept. 2002; amended by Ord. #1466, July 2003; and replaced by Ord. #1478, Feb. 2005, Ord. #1543, June 2007, Ord. #1569, June 2008, Ord. #1576, Oct. 2008, and Ord. #1590, July 2009)

18-104. Sewer rates. Sewer rates for residential and commercial establishments inside the city limits shall be one hundred seventeen percent (117%) of the water bill of all sewer users or of those persons who are eligible for sewer service and not using same. Unless special exception being granted after a written application is made for special exception and approved by the mayor and board of aldermen by a duly adopted resolution. Sewer rates for residential and commercial outside the City of McMinnville, Tennessee shall be one hundred thirty percent (130%) of the inside rate.

Residential Sewer Rates

<u>Number of gallons</u>	<u>Rates inside city limits</u>	<u>Rates outside city limits</u>
All eligible customers	4.00 minimum	9.00 minimum
Plus all gallons 0 and above	.468 per 100 or any fractional part thereof	.607 per 100 or any fractional part thereof

Industrial/Commercial Sewer Rates

<u>Number of gallons</u>	<u>Rates inside city limits</u>	<u>Rates outside city limits</u>
All eligible customers	4.00 minimum	9.00 minimum
Plus 1 to 50,000 gallons	.509 per 100	.660 per 100
Plus all over 50,000 gallons	.458 per 100 or any fractional part thereof	.594 per 100 or any fractional part thereof

(1982 Code, § 13-204, replaced by Ord. #1337, Dec. 1999, amended by Ord. #1337A, Jan. 2000, replaced by Ord. #1360, July 2000; Ord. #1375, March 2001; Ord. #1429, Sept. 2002; amended by Ord. #1466, July 2003; and replaced by Ord. #1478, Feb. 2005, Ord. #1543, June 2007, Ord. #1569, June 2008, Ord. #1576, Oct. 2008, and Ord. #1590, July 2009)

18-105. Water tapping fees.

	<u>Fees inside city limits</u>	<u>Fees outside city limits</u>
5/8" x 3/4" service connection	\$ 900.00	\$1,050.00
1" service connection	1,150.00	1,300.00
1 1/2" service connection	1,650.00	1,800.00

Larger taps will be considered on an individual basis. (1982 Code, § 13-205, as replaced by Ord. #1337, Dec. 1999, Ord. #1360, July 2000, and Ord. #1569, June 2008)

18-106. Sewer tapping fees. The sewer tapping fee for residential or commercial taps shall be:

- (1) Gravity flow lines – seven hundred fifty dollars (\$750.00).
- (2) Force mains – eight hundred fifty dollars (\$850.00). (1982 Code, § 13-206, as replaced by Ord. #1337, Dec. 1999, Ord. #1360, July 2000, and Ord. #1569, June 2008)

18-107. Fire hydrant rentals. Fire hydrants shall be rented at a rate of \$50.00 per hydrant per year. (1982 Code, § 13-207)

18-108. Inspection fees.¹ The following inspection fees shall apply:

For issuing each permit	\$ 5.00
For each plumbing fixture, floor drain or trap (incl. water and drainage piping)	1.50
For each house sewer	2.50
For each house sewer having to be replaced or repaired	5.00
For each cesspool	10.00
For each septic tank and seepage pit or drainfield	10.00
For each water heater and/or vent	1.50

(1982 Code, § 13-208)

18-109. Billing; enforcing payment. The charges for water and sewer services shall be combined in one statement and the water and sewer system shall bill the beneficiaries of such services and require the payment of both charges as a unit, and enforce the payment of such charges by discontinuing the

¹Municipal code reference

Plumbing code: title 12, chapter 2.

water service if both charges are not paid when due or within such time as the system may require thereafter. (1982 Code, § 13-209)

18-110. Service charges. A service charge of \$5.00 will be charged when water service is discontinued due to lack of payment and a \$5.00 service charge will be added when service is re-instated. In the event water is re-instated after duty hours the service charge will be \$15.00. (1982 Code, § 13-210)

18-111. Waste hauler fees. A trip fee shall be charged for each disposal. Fees shall be based on the capacity of the vehicle waste tank and not the actual volume contained in the tank for each load. Trip fees shall be based as follows:

<u>Vehicle class</u>	<u>Vehicle capacity (gal.)</u>	<u>Proposed trip fee</u>
A	0 – 500	6.50
B	501 – 1000	13.00
C	1001 – 2000	26.00
D	2001 – 3000	39.00
E	3001 – 4000	52.00

(as added by Ord. #1576, Oct. 2008)

CHAPTER 2

ENFORCEMENT RESPONSE PLAN

SECTION

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18-201. Introduction. One of the most important requirements of pretreatment program implementation for Publicly Owned Treatment Works (POTW) is an effective enforcement program to deal with Industrial User noncompliance. In July, 1990, Environmental Protection Agency amended the General Pretreatment Regulations requiring all POTW's, with approved pretreatment programs to develop enforcement response plans. An enforcement response plan specifies criteria by which POTW personnel can determine the enforcement action most appropriate to the nature of the violation.

The following enforcement response plan will enable the City of McMinnville to clearly establish enforcement responsibilities so that they can react decisively and consistently to specific instances of noncompliance. (1982 Code, § 13-301, as replaced by Ord. #1169, § 1, Sept. 1995)

18-202. Definitions of terms relevant to enforcement.

(1) "Absolve" - To excuse; to free from an obligation or the consequences of guilt or liability.

(2) "Administrative action (a fine or order)" - An enforcement action authorized by the Control Authority's legal authority which is taken without the involvement of a court.

(3) "Administrative fine" - A punitive monetary charge unrelated to actual treatment costs which is assessed by the Control Authority rather than a court.

(4) "Administrative order" - A document which orders the violator to perform a specific act or refrain from an act. For example, the order may require users to attend a show cause meeting, cease and desist discharging, or undertake activities pursuant to a compliance schedule.

- (5) "Admissible evidence" - Evidence which can be presented in court.
- (6) "Affidavit" - A sworn statement in writing under oath before an authorized magistrate or officer.
- (7) "Approval authority" - EPA or States with an EPA approved pretreatment program. The Approval Authority is responsible for approval and oversight of Control Authority pretreatment programs, including an evaluation of the effectiveness of local enforcement.
- (8) "Arbitrary" or "capricious allegation" - An assertion that a decision or action taken by the Control Authority was unreasonable or not founded upon sound judgement.
- (9) "Burden of proof" - The duty of proving a disputed assertion or charge in court.
- (10) "Cease and desist order" - An administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.
- (11) "Chain-of-custody" - A written record of sample possessions for all persons who handle (collect, transport, analyze, dispose of) a sample, including names, dates, times and procedures followed.
- (12) "Civil litigation"- A lawsuit filed in a civil court. If the court rules that the defendant industrial user violated the law the court may impose civil penalties, injunctions or other equitable remedies and/or cost recovery.
- (13) "Civil penalty" - A punitive monetary award granted by a court to the Control Authority against a noncompliant industrial user.
- (14) "Compliance order" - An administrative order directing a noncompliant industry to achieve or restore compliance by a date specified in the order.
- (15) "Compliance schedule" - A schedule of required activities (also called milestones) necessary for an industrial user to achieve compliance with all pretreatment program requirements.
- (16) "Consent decree" - A court supervised settlement agreement, the violation of which may be considered contempt of court.
- (17) "Consent order" - An administrative order embodying a legally enforceable agreement between the Control Authority and the noncompliant industrial user to compliance status.
- (18) "Control authority" - The entity directly administering and enforcing pretreatment standards and requirements against industrial users. For purposes of this manual, the Control Authority is an approved local POTW program.
- (19) "Criminal intent" - A state of mind which is a necessary element of all crimes. Criminal intent may be general (intent to perform an act) or specific (intent to break a law).
- (20) "Criminal negligence" - Negligence of such a character, or occurring under-such circumstances, as to be punishable as a crime (such as a flagrant and reckless disregard of the safety of others or willful indifference to the injury likely to follow).

(21) "Criminal prosecution" - A criminal charge brought by the Control Authority against an accused violator. The alleged criminal action may be a misdemeanor or a felony and is defined as willful, negligent, knowing, and/or intentional violations. A court trial-by-jury is generally required and upon conviction, punishment may include a monetary penalty, imprisonment, or both.

(22) "Defendant" - The party against whom relief or recovery is sought.

(23) "Deposition" - A discovery device by which one party addresses verbal questions to the other party or to a witness for the other party. Depositions are conducted under oath outside the courtroom, usually in the office of an attorney. A transcript is made of the deposition which may be used as evidence at trial.

(24) "Deterrent value" - A threat of reprisal which is sufficient to discourage the industrial user from future violations.

(25) "Discovery" - A variety of pretrial devices used by one party to obtain relevant facts and information about the case from the other party.

(26) "Double jeopardy" - The prohibition against a second prosecution after a trial for the same offense.

(27) "Enabling legislation" - A state law or charter which creates and empowers a Control Authority.

(28) "Felony" - A crime punishable by imprisonment for greater than one year (depending on State law).

(29) "Fees" - A schedule of charges imposed to recover treatment costs (not punitive in nature).

(30) "Fine" - A punitive monetary charge for a violation of the law. Often used synonymously with "penalty", although the term "fine" generally implies the use of administrative rather than civil (judicial) procedures.

(31) "Good faith effort" or "Progress" - Prompt and vigorous pollution control measures undertaken by the discharger which shows that extraordinary efforts (not a "business-as-usual" approach) have been made to achieve compliance.

(32) "Grand jury" - A body of citizens whose duties consist of determining whether probable cause exists that a crime has been committed, and whether an indictment should be returned against a named defendant.

(33) "Inadmissible" - Evidence not allowed to be presented in court.

(34) "Indictment" - A written accusation of criminal conduct by a grand jury.

(35) "Injunction," "Injunctive relief" - A court order which restrains or compels action by the industrial user.

(36) "Interrogatories" - A discovery device consisting of written questions submitted by one party to the other party or witness.

(37) "Judicial action" or "Case" - An enforcement action that involves a court. (The action may either be civil or criminal in nature).

(38) "Jurisdiction" - The extent of authority of governmental entity's power to make and enforce laws.

(39) "Legal authority" - The source of a Control Authority's jurisdiction and regulatory powers.

(40) "Libel suit" - A suit against a person who is responsible for a written statement that allegedly conveys an unjustly unfavorable impression of another person.

(41) "Litigation" - An enforcement action brought in a judicial (court) forum.

(42) "Misdemeanor" - A crime punishable by imprisonment of less than one year (depending on State law).

(43) "Notice of violation" (NOV) - A Control Authority document notifying an industrial user that it has violated pretreatment standards and requirements. Generally used when the violation is relatively minor and the Control Authority expects the violation to be corrected within a short period of time.

(44) "NPDES" (National Pollutant Discharge Elimination System) - A permit system for the direct discharge of pollutants into U.S. waterways.

(45) "Penalty" - A monetary or other punitive measure, usually associated with a court action. For purposes of this chapter, the term is used synonymously with fine.

(46) "Plaintiff" - A person or organization seeking remedy from a court. For purposes of this chapter, the plaintiff is the Control Authority.

(47) "Plea bargain" - An agreement between a prosecuting attorney and a criminal defendant whereby the defendant pleads guilty to a lesser charge and/or a reduction of sentence in exchange for cooperation in investigating or prosecuting the crime (e.g., waiving a trial).

(48) "Priority pollutants" - A list of 126 pollutants established by EPA and considered hazardous to the environment and to humans.

(49) "Proprietary information"- Information about a commercial chemical, product, or process which is considered to be confidential business information or a trade secret by an industrial user because if divulged, the information could be put the industrial user at an unfair competitive disadvantage with competitors in the same industry.

(50) "Publicly owned treatment works or POTW" - A system of conveyances and treatment for sewage and industrial wastes. Also refers to the governmental officials responsible for operation and maintenance of the collection system or treatment plant and the administration of the pretreatment program.

(51) "Reportable noncompliance" - Criteria for identifying when a Control Authority should be reported in the NPDES Quarterly Noncompliance Report for failure to implement its approved pretreatment program.

(52) "Request for admission" - A discovery device where a written statement of fact concerning the case is submitted to the adverse party and which that party is required to affirm or deny. Those statements that are

admitted will be treated by the court as having been established and need not be proved at trial.

(53) "Request for production" - A discovery device which requests the opposing party to produce some document or thing which may tend to resolve an issue in dispute in the case.

(54) "Search warrant" - A document issued by a magistrate or judge which authorized government entry into private premises to either observe compliance with applicable laws or collect evidence of noncompliance.

(55) "Self monitoring" - Sampling and analysis of wastewater performed by the industrial user.

(56) "Show cause order" - An administrative order directing a noncompliant user to appear before the Control Authority, explain its noncompliance, and show cause why more severe enforcement actions against the user should not go forward.

(57) "Significant noncompliance" - Criteria used by Control and Approval Authorities to identify important violations and/or patterns of noncompliance. This criteria is used to establish enforcement priorities and comply with special reporting requirements.

(58) "Standard of strict liability" - Liability which attaches without regard to the user's "negligence" or "intent" to violate. Noncompliant industrial users will be found liable for pretreatment violation if the Control Authority proves that a violation occurred.

(59) "Statue of limitations" - A law which prescribes the period within which an enforcement action may be pursued by the Control Authority.

(60) "Stipulation" - A voluntary agreement between opposing parties as to facts or issues in controversy.

(61) "Surcharge" - The charge for treating excessive pollutant loadings.

(62) "Termination of service" - A physical blockage of the sewer connection to a noncompliant user or issuance of a formal notice of termination to the industrial user.

(63) "Testimony" - A solemn declaration made by a witness under oath in response to interrogation by a lawyer or public official which is used as evidence.

(64) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(65) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8.

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under section 205(1)(b)(i)(D) of the new Industrial Commercial Wastewater Regulations, Emergency Order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours. (1982 Code, § 13-302, as replaced by Ord. #1169, § 1, Sept. 1995, and amended by Ord. #1587, April 2009)

18-203. Responsibilities of control authority personnel.

(1) Inspectors/field personnel. Inspectors/field personnel have the authority to conduct compliance sampling and inspections, screen compliance monitoring data, detect noncompliance, inform the pretreatment coordinator of

violations and immediately respond to noncompliance with informal warnings. NOV's or other similar citations.

(2) Pretreatment coordinator. The pretreatment coordinator is responsible for ensuring implementation of the Control Authority's pretreatment program requirements. Consequently, the pretreatment coordinator is also responsible for issuing NOV's and administrative orders, assessing fines, and publishing the list of significant violators.

(3) POTW director/superintendent. The wastewater treatment plant Superintendent is responsible for compliance with the terms and conditions of the POTW's NPDES permit and for the overall operation and maintenance of the POTW, including employee safety, protection of the collection system and the treatment plant, effluent quality, and sludge use and disposal. Given these responsibilities, the Superintendent will have authority to issue administrative orders, terminate service, conduct show cause hearings, and initiate judicial proceedings.

(4) Control authority attorney. The Control Authority attorney advises technical and managerial personnel on enforcement matters and orchestrates the judicial responses deemed necessary by the Superintendent. Consequently, the attorney should be consulted on all matters requiring the interpretation of the sewer use resolution and the enforcement response plan. Many Control Authorities have attorneys prepare model NOV's and administrative orders which may (with simple modifications) be easily issued by technical staff. In addition, many Control Authorities also routinely copy the attorney with administrative orders and fine assessments since further responses against the user may involve judicial action. (1982 Code, § 13-302, as replaced by Ord. #1169, § 1, Sept. 1995)

18-204. Determining time frames for enforcement actions and follow-up. In order for an enforcement action to be effective, it must be timely. For an action to be timely, the violation must be detected and responded to promptly after its occurrence. Therefore, review of compliance reports (for both effluent violations and timeliness) shall be a high priority at the time of their submission. The Control Authority staff shall review industrial user reports within five (5) days of receipt. Violations observed by Control Authority field personnel may receive even swifter attention.

No more than thirty (30) days shall be allowed to elapse between the detection of the violation(s) and the initiation of an enforcement response. If the appropriate response is an informal warning or an NOV, the response time may be much shorter. For example, a NOV should be sent to the noncompliant user within a week of the violation's detection.

After its initial enforcement response, the Control Authority shall closely track the industrial user's progress toward compliance. For example, the Control Authority should not wait several weeks to determine whether a compliance schedule milestone has been met or to verify that a report which was

to be submitted within ten (10) days of receiving a NOV was in fact submitted. Instead, the Control Authority shall make this determination on or about the milestone date. One method to ensure that user compliance is closely tracked is to increase the frequency of user self-monitoring. For instance, an administrative order may increase self-monitoring from once per quarter to once a month. Similarly, the Control Authority's own inspections of the user's facility may be increased until consistent compliance is demonstrated. These follow-up compliance activities shall begin no later than thirty (30) to forty five (45) days after initial enforcement response is taken. When follow-up activities indicate that the violation persists or that satisfactory progress is not being made, the Control Authority shall escalate its enforcement response.

These follow-up enforcement actions shall be taken within sixty (60) to ninety (90) days of the initial enforcement action. The model enforcement response guide presents time frames in which enforcement actions shall be taken. (1982 Code, § 13-304, as replaced by Ord. #1169, § 1, Sept. 1995)

18-205. Applying the enforcement response guide. A comprehensive enforcement response guide designates several alternative enforcement options for each type (or pattern) of noncompliance. The Control Authority personnel who detect noncompliance need only select an appropriate response from the short list of enforcement options indicated. There are a number of factors to consider when selecting a response from among these options:

- * Good faith of the user.
- * Compliance history of the user.
- * Previous success of enforcement actions taken against the particular user (e.g., if NOV's have not previously succeeded in returning the user to compliance, an administrative order is the more appropriate response).
- * Violation's effect on the receiving waters.
- * Violation's effect on the POTW

Since the remedies designated are all considered appropriate, the Control Authority must weigh each of the above factors in deciding whether to use a more or less stringent response.

The Control Authority shall consistently follow the response guide. To do otherwise sends a signal to industrial users and the public that the Control Authority is not acting in a predictable manner and may subject the Control Authority to charges of arbitrary enforcement decision making, thereby jeopardizing future enforcement.

The following pages present a model enforcement response guide for the Control Authority. This guide identifies types of violations, indicates initial and follow-up responses and designates personnel and time frames for these responses. (1982 Code, § 13-305, as replaced by Ord. #1169, § 1, Sept. 1995)

18-206. Using the model enforcement response guide. The enforcement guide is used as follows:

- (1) Locate the type of noncompliance in the first column and identify the most accurate description of the violation.
- (2) Assess the appropriateness of the recommended response(s) in column two. First offenders or users demonstrating good faith efforts may merit a more lenient response. Similarly, repeat offenders or those demonstrating negligence may require a more stringent response.
- (3) Apply the enforcement response to the industrial user. Specify corrective action or other responses required of the industrial user, if any. Column three indicates personnel to take each response and the time frame in which that response shall be taken.
- (4) Follow-up with escalated enforcement action if the industrial user's response is not received or violation continues.

The Control Authority should remember to maintain all supporting documentation regarding the violation and its enforcement actions in the industrial user's file. (1982 Code, § 13-306, as replaced by Ord. #1169, § 1, Sept. 1995)

18-207. Description of terms. Terms and abbreviations used in the model guide are defined below.

"AO"	Administrative order
"Civil litigation"	Civil litigation against the industrial user seeking equitable relief, monetary penalties and actual damages.
"Criminal prosecution"	Pursuing punitive measures against an individual and/or organization through a court of law.
"Fine"	Monetary penalty assessed by control authority officials. Fines should be assessed by the pretreatment coordinator or the POTW superintendent.
"I"	Inspector
"IU"	Industrial user
"Meeting"	Informal compliance meeting with the IU to resolve recurring non-compliance.
"NOV"	Notice of violation

"PC"	Pretreatment Coordinator
"S"	Superintendent
"SV"	Significant violation
"Show cause"	Formal meeting requiring the IU to appear and demonstrate why the control authority should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules. (1982 Code, § 13-307, as replaced by Ord. #1169, § 1, Sept. 1995)

18-208. Model enforcement response guide.

Unauthorized Discharges (no permit)			
Noncompliance	Nature of the Violation	Enforcement Responses	Personnel
1. Unpermitted discharge	IU unaware of requirement; no harm to POTW/ environment	Phone call; NOV with application form	PC
	IU unaware of requirement; harm to POTW	- AO with \$500.00 fine - Civil Action	PC S
	Failure to apply continues after notice by the POTW	- Civil Action - Criminal Investigation - Terminate Service	S S S
2. Nonpermitted discharge (failure to renew)	IU has not submitted application within ten (10) days of due date	- Phone call; NOV	PC
Discharge Limit Violation			
1. Exceedance of local or federal standard (permit limited)	Isolated, not significant	- Phone call; NOV	I, PC
	Isolated, significant (no harm)	AO to develop spill prevention plan and \$500.00 fine	PC
	Isolated, harm to POTW or environment	AO with \$1,000 fine - Show cause order - Civil action	PC, S PC, S S
	Recurring, no harm to POTW/environment	AO with \$750.00 fine	PC
	Recurring; significant (harm)	- AO with \$1,000.00 fine - Show cause order - Civil action - Terminate service	PC PC, S S S

Monitoring and Reporting Violations			
Noncompliance	Nature of the Violation	Enforcement Responses	Personnel
1. Reporting violation	Report is improperly signed or certified	- Phone call; NOV	PC
	Report is improperly signed or certified after notice by POTW	- AO - Show cause order	PC PC, S
	Isolated, not significant (e.g., 5 days late)	Phone call; NOV	I, PC
	Significant (e.g., report 30 days or more late)	AO to submit with \$200.00 fine per additional day	PC
	Reports are always late or no reports at all	- AO with \$1,000 fine - Show cause order - Civil action	PC PC, S S
	Failure to report spill or changed discharge (no harm)	- NOV	PC
	Failure to report spill or changed discharge (results in harm)	- AO with \$1,000 fine - Civil action	PC S
	Repeated failure to report spills	- Show cause order - Terminate service	PC, S S
	Falsification	- Criminal investigation - Terminate service	S S
2. Failure to monitor correctly	Failure to monitor all pollutants as required by permit	- NOV or AO	PC
	Recurring failure to monitor	- AO with \$1,000 fine - Civil action	PC S

3. Improper sampling	Evidence of intent	- Criminal investigation - Terminate service	S S
4. Failure to install monitoring equipment	Delay of less than 30 days	- NOV	PC
	Delay of 30 days or more	AO to install monitoring equipment with \$500.00 fine for each additional day	PC
	Recurring, violation of AO	- Civil action - Criminal investigation - Terminate service	PC S S
5. Compliance schedules	Missed milestone by less than 30 days, or will not affect final milestone	NOV or AO with \$300.00 fine	PC
	Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)	AO with \$500.00 fine	PC
	Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay)	AO with \$1,000 fine - Show cause order - Civil action - Terminate service	PC, S PC, S S S
	Recurring violation or violation of schedule in AO	- Civil action - Criminal investigation - Terminate service	S S S
Other permit violations			
1. Wastestreams are diluted in lieu of treatment	Initial violation	AO with \$1,000 fine	PC
	Recurring	- Show cause order - Terminate service	PC, S S

2. Failure to mitigate noncompliance or halt production	Does not result in harm	- NOV	PC
	Does result in harm	- AO with \$1,000.00 fine - Civil action	PC S
3. Failure to properly operate and maintain pretreatment facility	Does not result in harm	- NOV	PC
	Does result in harm	- AO with \$1,000.00 fine - Civil action	PC S
Violations detected during site visits			
Noncompliance	Nature of violations	Enforcement Responses	Personnel
1. Entry denial	Entry denied or consent withdrawn; copies of records denied	Obtain warrant and return to IU	I
2. Illegal discharge	No harm to POTW or environment	AO with \$500.00 fine	PC
	Discharge causes harm or evidence of intent/negligence	- AO with \$1,000.00 fine - Civil action - Criminal investigation	PC, S S S
	Recurring, violation of AO	- Terminate service	S
3. Improper sampling	Unintentional sampling at incorrect location	- NOV	I, PC
	Unintentional using incorrect sample type	- NOV	I, PC
	Unintentional using incorrect sample collection techniques	- NOV	I, PC
4. Inadequate recordkeeping	Inspector finds files incomplete to missing (no evidence of intent)	- NOV	I, PC
	Recurring, or evidence of intent	AO with \$1,000.00 fine	PC

5. Failure to report additional monitoring	Inspection finds additional files (no evidence of intent)	NOV	I, PC
	Recurring or evidence of intent	AO with \$1,000.00 fine	PC
Timeframe for responses			
A. All violations will be identified and documented within five (5) days of receiving compliance information.			
B. Initial enforcement responses, [involving contact with the industrial user and requesting information on corrective or preventative action(s)] will occur within fifteen (15) days of violation detection.			
C. Follow up actions for continuing or reoccurring violations will be taken within sixty (60) days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.			
D. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.			
E. All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within thirty (30) days of the identification of significant noncompliance. (1982 Code, § 13-308, as replaced by Ord. #1169, §, Sept. 1995)			

18-209. Administrative enforcement remedies¹.

(1) Notification of violation. Whenever the superintendent finds that any industrial user has violated or is violating City of McMinnville's Sewer Use Ordinance, 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 from 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 hereby 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.

(3) Show cause hearing. (a) The Superintendent may order any industrial user which causes or contributes to violation of City of McMinnville's Sewer Use Ordinance or order or wastewater permit 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 hearing, 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 hearing 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 service on any principal executive, general partner or corporate officer. In the event a duly notified industrial user does not appear as noticed, immediate enforcement action may be pursued.

(b) At any hearing held, testimony taken must be under oath and either audio recorded or stenographically. The transcript, so recorded, will be made available to any party of the hearing, and any member of the public upon payment of the usual charges thereof.

(4) Compliance order. When the Superintendent finds that an industrial user has violated or continues to violate City of McMinnville's Sewer Use 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

¹See Ord. #1169 (Sept. 1995) of record in the office of the recorder for an example NOV; Cease and Desist Order; Consent Order; Compliance Order; and Show Cause Order.

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 City of McMinnville's Sewer Use Ordinance or those contained in any permit 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) Comply in accordance with a compliance time schedule set forth in the order;
- (c) 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 penalties. Any user who is found to have violated any provisions of City of McMinnville's Sewer Use Ordinance, or the orders and permits 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.

(7) Emergency suspensions. (a) The Superintendent may suspend the wastewater treatment service and/or wastewater permit whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing any of the following conditions:

- (i) An imminent or substantial endangerment to the health or welfare of persons, or the environment.
- (ii) An interference or pass through.
- (iii) A violation of any condition of the POTW's NPDES permit.

(b) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. A hearing will be held within fifteen (15) days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure of the person to 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 system or endangerment to any individuals. The Superintendent shall reinstate the wastewater permit

and/or the wastewater treatment, service upon proof of the elimination of the noncomplying discharge.

(c) An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in paragraph (b) above.

(8) Termination of permit. Any user who violates the following conditions of the City of McMinnville Sewer User Ordinance or a wastewater discharge permit or order, or any applicable or State and Federal law, is subject to permit termination:

(a) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(b) Failure to report significant changes in operations, or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;

(d) Intentional violation of permit conditions.

(9) Judicial remedies. If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of the City of McMinnville Sewer Use Ordinance or any order or permit issued hereunder, the Superintendent, through the City attorney, may commence an action for appropriate legal and/or equitable relief in the Chancery Court for Warren County.

(10) Injunctive relief. Whenever an industrial user has violated or continues to violate the provisions of the City of McMinnville Sewer Use Ordinance or an order or permit issued hereunder, the Superintendent, through the City Attorney, 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.

In the event the Superintendent chooses to correct the violation himself, the cost of such correction may be added to the next scheduled sewer service charge payable by the person(s) causing the violation. The Superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges.

(11) Civil penalties. (a) Any industrial user who has violated or continues to violate City of McMinnville's Sewer Use ordinance 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(s) continues. In addition to the above described penalty and damages, the Superintendent may recover reasonable attorney's fees, court costs, and other expenses including his enforcement activities, special 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. (1982 Code, § 13-310, as replaced by Ord. #1169, § 1, Sept. 1995)

18-210. Criminal violations. (1) Violations generally. (a) Any industrial user who willfully or negligently violates any provision of City of McMinnville Sewer Use Ordinance, or any orders, or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation, per day, or imprisonment for not more than one (1) year or both.

(b) In the event of a second conviction, the user shall be punishable by a fine not to exceed three thousand dollars (\$3,000.00) per violation, per day, or imprisonment for not more than three (3) years or both.

(2) Falsifying information. (a) 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 City of McMinnville Sewer Use ordinance, or Wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under City of McMinnville's Sewer Use Ordinance shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

(b) In the event of a second conviction, the user shall be punishable by a fine not to exceed three thousand dollars (\$3,000.00) per violation, per day, or imprisonment for not more than three (3) years, or both. (1982 Code, § 13-310, as replaced by Ord. #1169, § 1, Sept. 1995)

18-211. Additional enforcement remedies. (1) Additional enforcement remedies. 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 violation, as defined in this plan, with any provisions of the City of McMinnville Sewer Use Ordinance or any order or permit issued hereunder during the period since the previous publication.

(2) Performance bonds. The Superintendent may decline to reissue a permit to any industrial user which has failed to comply with the provisions of the City of McMinnville Sewer Use ordinance or any order or previous permit issued hereunder unless such user first files with it a satisfactory bond, payable

to the POTW, in the sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

(3) Liability insurance. The Superintendent may decline to reissue a permit to any industrial user which has failed to comply with the provisions of the City of McMinnville Sewer Use Ordinance 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.

(4) Water supply severance. Whenever an industrial user has violated or continues to violate the provisions of City of McMinnville's Sewer Use Ordinance or an order or permit issue hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated consistent compliance.

(5) Informant rewards. The Superintendent is authorized to pay up to \$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. (1982 Code, § 13-311, as replaced by Ord. #1169, § 1, Sept. 1995)

18-212. Affirmative defenses. (1) Operating 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 first awareness 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 timely complies with the notification provisions of this section shall have an affirmative defense to any enforcement action brought by the Superintendent for any noncompliance with the City of McMinnville Sewer Use Ordinance, or an order or permit issued hereunder by the user, which arises out of violations alleged to have occurred during the period of the documented

and verified upset. (1982 Code, § 13-312, as replaced by Ord. #1169, § 1, Sept. 1995)

CHAPTER 3

GENERAL WASTEWATER REGULATIONS

SECTION

- 18-301. Purpose and policy.
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- 18-312. [Deleted.]
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18-301. Purpose and policy. This chapter sets forth uniform requirements for users of the City of McMinnville, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health;
- (2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;
- (3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;
- (4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
- (7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the City of McMinnville must have adequate wastewater

treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 4 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 4 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (1982 Code, § 13-401, as replaced by Ord. #1169, § 1, Sept. 1995, and Ord. #1587, April 2009)

18-302. Administrative. Except as otherwise provided herein, the director of the water and wastewater department shall serve as the local administrative officer of the city and shall administer, implement, and enforce the provisions of this chapter. The water and wastewater committee shall make up the local hearing authority. (1982 Code, § 13-402, as replaced by Ord. #1169, § 1, Sept. 1995, and Ord. #1587, April 2009)

18-303. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 USC § 1251, et seq.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(4) "Authorized or duly authorized representative of industrial user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with

environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (a) through (c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-309 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty (20) degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The National Categorical Pretreatment Standards or pretreatment standard as found in 40 CFR chapter I, subchapter N, parts 405-471.

(9) "City." The Board of Mayor and Aldermen, City of McMinnville, Tennessee.

(10) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(11) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the

future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(20) "Environmental Protection Agency, or EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(21) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(22) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples

by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(23) "Grease interceptor." An interceptor whose rated flow is fifty (50) gpm (gallons per minute) or less and is generally located inside the building.

(24) "Grease trap." An interceptor whose rated flow is fifty (50) gpm or more and is located outside the building.

(25) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(26) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(27) "Indirect discharge." The introduction of pollutants into the WWF from any non-domestic source.

(28) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 USC § 1342).

(29) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(30) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(31) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(32) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(33) "Local administrative officer." The chief administrative officer of the local hearing authority.

(34) "Local hearing authority." The board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to section 205.

(35) "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 USC § 1347) which applies to a specific category of industrial users.

(36) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) system.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

(38) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act as amended.

(39) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(40) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(44) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(48) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act (33 USC § 1292) which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also

includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See WWF, Wastewater Facility, found in definition number 63, below.

(49) "Shall" is mandatory; "may" is permissive.

(50) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(51) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8.

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under section 205(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control

mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(52) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(53) "Standard Industrial Classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(54) "State." The State of Tennessee.

(55) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(56) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(58) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(59) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(60) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(61) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if

a municipality levies a sewer charge on the basis of such availability, Tennessee Code Annotated, § 68-221-201.

(62) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(63) "Wastewater facility." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or publicly owned treatment works.

(64) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(65) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (1982 Code, § 13-403, as replaced by Ord. #1169, Sept. 1995, and Ord. #1587, April 2009)

18-304. Proper waste disposal required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is

considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-305 of this chapter.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (1982 Code, § 13-404, as replaced by Ord. #1169, Sept. 1995, and Ord. #1587, April 2009)

18-305. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-404(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department. (1982 Code, § 13-405, as replaced by Ord. #1169, Sept. 1995, and Ord. #1587, April 2009)

18-306. Connection to public sewers. (1) Application for service.

- (a) There shall be two (2) classifications of service:
 - (i) Residential; and
 - (ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this ordinance. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of the ordinance comprising this chapter shall be completely and permanently disconnected within sixty (60) days of the effective day of the ordinance comprising this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the city at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every single family unit or commercial building; unless the sewer has been sized for multiple units; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system - four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four inch (4") sewers - one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty-five (45) degrees. Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-307 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property

disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection connections. (i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow storm water or ground water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system.

All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works, located at <http://www.state.tn.us/environment/wpc/publications/>. Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (1982 Code, § 13-406, as replaced by Ord. #1169, Sept. 1995, and Ord. #1587, April 2009)

18-307. Grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, a Grinder Pump (GP) system may be installed subject to the regulations of the city.

(1) Equipment requirements. Pumps must be approved by the city and shall be maintained by the city.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for GP systems as provided by the superintendent.

(3) Costs. GP equipment shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) Ownership and agreement. Homeowners or developers shall provide the city with ownership of the equipment and an agreement for access to perform necessary maintenance or repair. Access by the city to the GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of GP systems. (a) Home or business owners shall follow the GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the GP tank.

(d) Prohibited uses of the GP system:

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Additional charges. The city shall be responsible for maintenance of the GP equipment. Customer assumes a monthly fixed maintenance charge as determined by the city per pump unit which will be added to customer's water bill. (1982 Code, § 13-407, as replaced by Ord. #1169, Sept. 1995, and Ord. #1587, April 2009)

18-308. Regulation of holding tank waste disposal or trucked in waste. (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is

satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-407 of this chapter. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of McMinnville.

(5) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (Ord. #1169, Sept. 1995, as replaced by Ord. #1587, April 2009)

18-309. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-310 or 18-405. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, wastestreams with a closed cup flash point of less than one hundred forty degrees (140°) F or sixty degrees (60°) C using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees (40°) C (one hundred four degrees (104°) F) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall

include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 CFR 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee

Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 4 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A Plant Protection Criteria, unless specifically allowed by their discharge permit according to chapter 4 of this title. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A Plant Protection Criteria

Parameter	Maximum concentration (mg/l)
Arsenic	.013
Benzene	.018
Cadmium	.002
Carbon tetrachloride	.15
Chloroform	.223
Chromium (total)	.375
Copper	.16
Cyanide	.10
Ethybenzene	.04
Lead	.046
Mercury	.0002
Methylene chloride	.096
Molybdenum	.028
Naphthalene	.012
Nickel	.138
Phenol, total	.454
Selenium	.022
Silver	.029
Tetrachloroethylene	.139
Toluene	.375
Total phthalate	.169
Trichloroethylene	.10

Parameter	Maximum concentration (mg/l)
1,1,1-Trichloroethane	.25
1,2 Transdichloroethylene	.007
Zinc	.30

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable city guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the city is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under 202 to regulate the discharge of fat, oil and grease. (Ord. #1169, Sept. 1995, as replaced by Ord. #1587, April 2009)

18-310. Enforcement and abatement. Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of

discharge permits according to chapter 4. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (Ord. #1169, Sept. 1995, as replaced by Ord. #1587, April 2009)

18-311. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-312. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

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18-337. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-338. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-339. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-340. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-341. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-342. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-343. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-344. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-345. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-346. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-347. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

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18-352. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-353. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-354. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-355. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-356. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-357. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-358. [Deleted.] (Ord. #1169, Sept. 1995, as deleted by Ord. #1587, April 2009)

18-359. [Deleted.] (as added by Ord. #1555, Feb. 2008, and deleted by Ord. #1587, April 2009)

CHAPTER 4

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION

- 18-401. Industrial pretreatment.
- 18-402. Discharge permits.
- 18-403. Industrial user additional requirements.
- 18-404. Reporting requirements.
- 18-405. Enforcement and abatement, complaints and orders.
- 18-406. Enforcement response guide table.
- 18-407. Fees and billing.
- 18-408. Validity.

18-401. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-309 of this title.

(2) Users wishing to discharge pollutants at higher concentrations than Table A Plant Protection Criteria of § 18-309, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-305.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as Local Limits, Table B or other applicable state and federal pretreatment rules which may take effect after the passage of the ordinance comprising this chapter.

Table B - Local Limits

Pollutant	Monthly average* maximum concentration (mg/l)	Daily maximum concentration (mg/l)
Arsenic	.39	.58
Benzene	.54	.81
Cadmium	.054	.081
Carbon tetrachloride	4.48	6.72
Chloroform	6.15	9.22
Chromium (total)	11.1	16.65
Copper	3.8	5.7
Cyanide	2.9	4.35
Ethybenzene	1.18	1.77
Lead	1.21	1.81
Mercury	.0024	.0036
Methylene chloride	2.78	4.17
Molybdenum	.68	1.02
Napthalene	.31	.46
Nickel	4.13	6.19
Phenol, total	9.93	14.89
Selenium	.57	.85
Silver	.87	1.3
Tetrachloroethylene	4.14	6.21
Toluene	8.67	13.0
Total phthalate	4.13	6.19
Trichlorethlene	2.98	4.47
1,1,1-Trichoroethane	7.48	11.22
1,2	.20	.30
Transdichloroethylene		
Zinc	3.28	4.92

*Based on twenty-four (24) hour flow proportional composite samples unless specified otherwise.

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge limits. Maximum concentrations may also be established for some users.

Table C - Surcharge and Maximum Limits

Parameter concentration	Surcharge limit	Maximum
BOD	300 mg/l	400 mg/l
Total suspended solids	300 mg/l	400 mg/l

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in § 18-309 Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency. (1982 Code, § 13-501, as deleted by Ord. #1169, Sept. 1995, and replaced by Ord. #1587, April 2009)

18-402. Discharge permits. (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge

permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-306 of this title and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-309 and 18-401 discharge variations -- daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application

for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;

- (B) Provisions of transfer;
- (C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws.
- (D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
- (E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;
- (F) Requirements to control slug discharges, if determined by the WWF to be necessary;
- (G) Requirement to notify the WWF immediately if changes in the users processes affect the potential for a slug discharge.
- (ii) Additionally, permits may contain the following:
 - (A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
 - (B) Requirements for installation and maintenance of inspection and sampling facilities;
 - (C) Compliance schedules;
 - (D) Requirements for submission of technical reports or discharge reports;
 - (E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;
 - (F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;
 - (G) Prohibition of bypassing pretreatment or pretreatment equipment;
 - (H) Effluent mass loading restrictions;
 - (I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in: (A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the

release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (1982 Code, § 13-502, as deleted by Ord. #1169, Sept. 1995, and replaced by Ord. #1587, April 2009)

18-403. Industrial user additional requirements. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR 136 and appropriate EPA

guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment. This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence. Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (1982 Code, § 13-503, as deleted by Ord. #1169, Sept. 1995, and replaced by Ord. #1587, April 2009)

18-404. Reporting requirements. Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-405.

(1) **Baseline monitoring report.** (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in subsection (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsection (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

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

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula.

(v) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required

by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist, or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods.

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest

schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-404(2) of this chapter.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-404(14) of this chapter and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-404(1)(d) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts or major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule;

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-404(1)(b)(iv) of this chapter. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the

pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this title.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-401 of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-402 of this chapter or modify an existing wastewater discharge permit under § 18-402 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification

relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All

notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-404(5) of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-404(1), 18-404(3), and 18-404(4) of this chapter.

(b) Dischargers are exempt from the requirements of subsection (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued there under, or any applicable federal or state law.

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

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and

analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-408. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain

available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (1982 Code, § 13-504, as deleted by Ord. #1169, Sept. 1995, and replaced by Ord. #1587, April 2009)

18-405. Enforcement and abatement, complaints and orders.

Under the authority of Tennessee Code Annotated, § 69-3-123, et seq.:

(1) Complaints; notification of violation; orders. (a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the McMinnville Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-405(2), no later than thirty (30) days after the date the order

is served; provided, that the local hearing authority may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) through (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the city or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one (1) of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a

continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative

officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subsection (a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Warren County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (b).

(viii) Any person to whom an emergency order is directed under § 18-405(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125:

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs:

- (A) Unauthorized discharge, discharging without a permit;
- (B) Violates an effluent standard or limitation;
- (C) Violates the terms or conditions of a permit;
- (D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the city resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall

treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in 18-402(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permit, or orders issued hereunder, or for any of the following conditions:

- (a) Violation of wastewater discharge permit conditions.
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- (e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-309 of chapter 3.
- (f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance. For the purpose of this guide, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-405(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table included in this chapter as Appendix A.

(9) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The

term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (C), (D) or (H) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-407 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWF personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (1982 Code, § 13-505, as deleted by Ord. #1169, Sept. 1995, and replaced by Ord. #1587, April 2009)

18-406. Enforcement response guide table. (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of the ordinance comprising this chapter.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in the McMinnville Enforcement Response Plan, Appendix A of this chapter, to impose sanctions or penalties for the violation of the ordinance comprising this chapter. (1982 Code, § 13-506, as deleted by Ord. #1169, Sept. 1995, and replaced by Ord. #1587, April 2009)

18-407. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees (see § 18-401 Table C);
- (e) Waste hauler permit;
- (f) Industrial wastewater discharge permit fees;
- (g) Fees for industrial discharge monitoring; and
- (h) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-402 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) Sewer user charges.¹ The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-407 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

¹Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (included in this chapter as Appendix A). The local administrative officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	\$50.00 – \$500.00
Category 3	\$500.00 – \$1,000.00
Category 4	\$1,000.00 – \$5,000.00
Category 5	\$5,000.00 – \$10,000.00

(1982 Code, § 13-507, as deleted by Ord. #1169, Sept. 1995, and replaced by Ord. #1587, April 2009)

18-408. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city. (as added by Ord. #1587, April 2009)

CITY OF MCMINNVILLE

APPENDIX A

Enforcement Response Guide Table

Unauthorized Discharge (no permit)				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
Failure to return industrial user survey	Initial requirements not understood	1	Phone call or visit to explain or assist	PC
	Persistent after assistance	4	AO and fine or termination of service	PC, LAO
Unpermitted discharge	IU unaware of requirements; no harm to POTW or environment	1	Phone call and/or NOV with application	PC
	IU unaware of requirement; harm to POTW or environment	4	AO and fine or termination of service	LAO
	Failure to apply continues after notification by PC	5	Civil action in chancery court and/or criminal investigation and/or termination	LAO
Failure to renew permit	IU has not submitted application within 10 days of due date	1	Phone call, NOV	PC

Discharge Permit Violations				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
Exceeding of local, state, or federal standards	Isolated, < or = 1/month (no harm)	1	Phone call and/or NOV	PC
	Isolated, > or = 1/month (no harm)	2	NOV and/or AO	PC, LAO
	Isolated, harmful to POTW or environment	3	Show cause hearing and/or AO and fine, and/or legal action	PC LAO
	Chronic or TRC, no harm	1	NOV and public notice	PC
	Chronic or TRC, no harm	2, 2nd 3, 3rd 4, 4th	Public notice and/or AO with fine	PC, LAO
	Chronic or TRC, harm to POTW or environment	4	AO and fine, and/or legal action, and/or termination of service	LAO
Monitoring and Reporting Violations				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
Reporting violation	Report improperly signed or certified	1	Phone call and/or NOV	PC
	Report improperly signed or certified after prior notice	2	Show cause hearing and/or AO	PC LAO
	Isolated, (< 20%/6 month, > 5 days late)	1	Phone call and/or NOV	PC

Monitoring and Reporting Violations				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
	Significant, (> 20%/6 month, > 5 days late)	2	AO to submit and fine for each additional day late	LAO
	Reports always late: failure to submit (> 75% of reports > 5 days late) within 12 month reporting period	5	AO and fine and/or civil action or chancery court or termination of service	LAO
	Failure to report spill or discharge change, no harm	1	NOV	PC
	Failure to report spill or discharge change with harm	3	AO and fine and/or civil action	LAO
	Repeated failure to report spills > 2 failures/12 month reporting periods	5	AO and fine and/or civil action or termination	LAO
	Falsification of records	5	Criminal investigation or termination	LAO

Monitoring and Reporting Violations				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
Failure to monitor correctly	Failure to monitor all permit required pollutants	1 2	NOV 1st/12 month reporting period AO 2nd/12 month reporting period	PC LAO
	Recurring failure to monitor > 4 failures/24 month reporting period	3	AO and fine and/or civil action	LAO
Improper sampling	No evidence of intent	1	NOV	PC
	Evidence of intent, tampering with sampler	3, 1st 5, Repeated	NOV and AO Criminal investigation or termination	PC, LAO
Failure to install monitoring equipment	Delay of less than 30 days	1	NOV	PC
	Delay of more than 30 days	2	AO to install with fine for each additional day	LAO
	Recurring, violation of AO	5	Civil action or criminal investigation or termination of service	LAO
Compliance schedule	Missed milestone, less than 30 days, will not affect final schedule	1	NOV	PC
	Missed milestone, less than 30 days, will affect final schedule (good cause)	2	AO	LAO

Monitoring and Reporting Violations				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
	Missed milestone, less than 30 days, will affect final schedule (no good cause)	4	AO and fine Civil action or termination	LAO
	Recurring violations or violations of AO	5	Civil action and/or criminal investigation and/or termination of service	LAO
Other Permit Violations				
Noncompliance	Nature of Violations	Category	Enforcement Response	Personnel
Waste stream dilution in lieu of pretreatment	Initial violation	2	AO and fine	LAO
	Recurring	3	Show cause hearing Termination	LAO
Failure to mitigate noncompliance or halt production	Does not cause harm	1	NOV	PC
	Does cause harm	5	AO and fine or civil action	LAO
Discharging following a terminated permit due to enforcement action that terminated service	Initial violation	5	Maximum penalties	LAO
Failure to resample following violation	Initial violation	1	Phone call or visit	PC
	Repeated failure after notice by PC	2nd #1, 3rd #2, 4th #3	2nd NOV, 3rd AO and fine 4th AO and fine and/or termination of service	PC, LAO

Other Permit Violations				
Noncompliance	Nature of Violations	Category	Enforcement Response	Personnel
Failure to properly operate and maintain facility	Does not cause harm	1	NOV	PC
	Does cause harm or reoccurring	4	AO and fine or civil action	LAO
Violations Detected During Site Visit				
Noncompliance	Nature of Violations	Category	Enforcement Response	Personnel
Entry denial	Entry denied or consent withdrawn: copies of records denied	2	Obtain warrant and return to IU	PC
Illegal discharge, violation of general discharge prohibitions	No harm to POTW or environment	2	AO and fine	LAO
	Caused harm or evidence of intent or negligence	4	AO and fine and/or civil action and/or criminal investigation	LAO
	Recurring, violation of AO	5	Terminate service	LAO
Improper sampling	Unintentional sampling at incorrect location	1	NOV	PC
	Unintentional using incorrect sample type	1	NOV	PC
	Unintentional using incorrect techniques	1	NOV	PC

Violations Detected During Site Visit				
Noncompliance	Nature of Violations	Category	Enforcement Response	Personnel
Inadequate record keeping	Files incomplete or missing (no evidence of intent)	1	NOV	PC
	Recurring	3	AO and fine	LAO
Failure to report additional monitoring	Inspection finds additional files (unintentional)	2	NOV	LAO
	Recurring (considered falsification)	4	AO and fine	LAO

CHAPTER 5

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

18-501. Cross-connections control policy.

18-502. [Deleted.]

18-503. [Deleted.]

18-504. [Deleted.]

18-505. [Deleted.]

18-506. [Deleted.]

18-507. [Deleted.]

18-508. [Deleted.]

18-509. [Deleted.]

18-510. [Deleted.]

18-511. [Deleted.]

18-501. Cross-connections control policy. The City of McMinnville Cross-Connections Control Policy (Ord. #1626) is adopted by reference as if fully included herein, and is available in the office of the city recorder. (1982 Code, § 8-401, as replaced by Ord. #1626, Oct. 2010)

18-502. [Deleted.] (1982 Code, § 8-402, as deleted by Ord. #1626, Oct. 2010)

18-503. [Deleted.] (1982 Code, § 8-403, as deleted by Ord. #1626, Oct. 2010)

18-504. [Deleted.] (1982 Code, § 8-404, as deleted by Ord. #1626, Oct. 2010)

18-505. [Deleted.] (1982 Code, § 8-405, as deleted by Ord. #1626, Oct. 2010)

18-506. [Deleted.] (1982 Code, § 8-406, as deleted by Ord. #1626, Oct. 2010)

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

18-507. [Deleted.] (1982 Code, § 8-407, as deleted by Ord. #1626, Oct. 2010)

18-508. [Deleted.] (1982 Code, § 8-408, as deleted by Ord. #1626, Oct. 2010)

18-509. [Deleted.] (1982 Code, § 8-409, as deleted by Ord. #1626, Oct. 2010)

18-510. [Deleted.] (1982 Code, § 8-410, as deleted by Ord. #1626, Oct. 2010)

18-511. [Deleted.] (1982 Code, § 8-411, as deleted by Ord. #1626, Oct. 2010)

TITLE 19**ELECTRICITY AND GAS¹****CHAPTER****1. GAS.****CHAPTER 1****GAS²****SECTION**

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.³ (1982 Code, §§ 13-701 -- 13-711)

¹Municipal code reference
Emergency operations plan: title 20, chapter 5.

²Municipal code reference
Gas code: title 12.

³The agreements are of record in the office of the city recorder.

TITLE 20**MISCELLANEOUS****CHAPTER**

1. FAIR HOUSING.
2. CITY SERVICES OUTSIDE CORPORATE LIMITS.
3. OFFICIAL SEAL.
4. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT.
5. EMERGENCY OPERATIONS PLAN.
6. CITY OF McMINNVILLE TREE AND LANDSCAPE PROTECTION ORDINANCE.

CHAPTER 1**FAIR HOUSING****SECTION**

- 20-101. Definitions.
- 20-102. Purposes of law; construction; effect.
- 20-103. Unlawful housing practices.
- 20-104. Blockbusting.
- 20-105. Exemptions from housing provisions.
- 20-106. Provisions for enforcement.
- 20-107. Agency no defense in proceeding against real estate dealer.
- 20-108. Establishment of procedures for conciliation.
- 20-109. Findings of hearing committee; nature of affirmative action.
- 20-110. Investigations, powers, records.
- 20-111. Conspiracy to violate this chapter unlawful.

20-101. Definitions. Except where the context clearly indicates otherwise, the following terms as used in this chapter shall have the following meanings:

(1) "Hearing committee" means the Building Committee of the Board of Mayor and Aldermen of the City of McMinnville. Said committee shall hear, make determinations, and issue findings in all cases of discriminatory practices in housing resulting from conciliation failure.

(2) "Conciliation agreement" means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both complainant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

(3) "Conciliation failure" means any failure to obtain a conciliation agreement between the parties to the discrimination charge or a breach thereof.

(4) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, age, familial status, or handicapped, national origin, sex, or the aiding, abetting, inciting, coercing, or compelling thereof.

(5) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(6) "Housing accommodations" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied as a home or residence of one or more individuals.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the city or any of its agencies, or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereof, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) "Real estate broker" or "real estate salesman" means an individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements to negotiate on behalf of others such an activity; or who advertises or holds themselves out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these. (1982 Code, § 4-501, as replaced by Ord. #622-A, Feb. 1997)

20-102. Purposes of law; construction; effect. The general purposes of this chapter are:

(1) To provide for execution within the City of McMinnville of the policies embodied in Title VIII of the Federal Civil Rights Act of 1968 as amended.

(2) To safeguard all individuals within the city from discrimination in housing opportunities because of race, color, religion, sex, national origin, age, familial status, or handicapped; thereby to protect their interest in personal

dignity and freedom from humiliation; to secure the city against domestic strife and unrest which would menace its democratic institutions; to preserve the public health and general welfare; and to further the interests, rights, and privileges of individuals within the city.

Nothing contained in this chapter shall be deemed to repeal any other law of this city relating to discrimination because of race, color, religion, sex, national origin, age, familial status, or handicapped. (1982 Code, § 4-502, as replaced by Ord. #622-A, Feb. 1997)

20-103. Unlawful housing practices. It is an unlawful practice for a real estate owner or operator or a real estate broker, real estate salesman, or any individual employed by or acting on behalf of any of these:

(1) To refuse to sell, exchange, rent, or lease or otherwise deny to or withhold real property from an individual because of his or her race, color, religion, sex, national origin, age, familial status, or handicapped.

(2) To discriminate against an individual because of his or her race, color, religion, sex, national origin, age, familial status, or handicapped in the terms, conditions, or privileges of the sale, exchange, rental, or lease of real property or in the furnishing of facilities or services in connection therewith.

(3) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property from an individual because of his or her race, color, religion, sex, national origin, age, familial status, or handicapped.

(4) To refuse to negotiate for the sale, rental, or lease of real property to an individual because of his or her race, color, religion, sex, national origin, age, familial status, or handicapped.

(5) To represent to an individual that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his or her race, color, religion, sex, national origin, age, familial status, or handicapped.

(6) To print, circulate, post, or mail or cause to be printed, circulated, posted, or mailed an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, sex, national origin, age, familial status, or handicapped or an intent to make such a limitation, specification, or discrimination.

(7) To offer, solicit, accept, use, or retain a listing of real property for sale, rental, or lease with the understanding that an individual may be discriminated against in the sale, rental, or lease of that real property or in the furnishing of facilities or services in connection therewith because of race, color, religion, sex, national origin, age, familial status, or handicapped.

(8) Otherwise to deny to or withhold real property from an individual because of race, color, religion, sex, national origin, age, familial status, or handicapped. (1982 Code, § 4-503, as replaced by Ord. #622-A, Feb. 1997)

20-104. Blockbusting. It is an unlawful practice for a real estate owner or operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, sex, national origin, age, familial status, or handicapped of the owners or occupants in the block, neighborhood, or areas in which the real property is located.

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located. (1982 Code, § 4-504, as replaced by Ord.#622-A, Feb. 1997)

20-105. Exemptions from housing provisions. (1) Nothing in § 20-103 shall apply:

(a) To the rental of housing accommodations in a building which contains housing accommodations for not more than four families living independently of each other, if the owner or member of his family resides in one of the housing accommodations.

(b) To the rental of one room or one rooming unit in a housing accommodation by an individual if he or a member of his family resides therein.

(c) To a landlord who refuses to rent to an unmarried male-female couple.

(2) Nothing in this chapter shall prevent a religious organization, association, or society, or any nonprofit 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 a religion is restricted on account of race, color, religion, sex, or national origin, age, familial status, or handicapped.

(3) Single sex dormitory rental property shall be excluded from the provisions of this act which relate to discrimination based on sex. (1982 Code, § 4-505, as replaced by Ord. #622-A, Feb. 1997)

20-106. Provisions for enforcement. (1) The violation of any of the provisions of this chapter shall subject the violator to a civil penalty in the amount of \$50.00 to be recovered in a civil action, provided that in the case of a continuing violation, the total penalty shall not exceed \$1,000,000.

(2) The city may sue in a civil act through the General Court of Justice for appropriate remedies to enforce the provisions of this chapter, including temporary restraining orders and mandatory and prohibitory injunctions.

(3) In addition to appropriate civil and/or equitable remedies for enforcement of this chapter, a violation of this chapter shall constitute a

misdemeanor punishable as provided by law. (1982 Code, § 4-506, as replaced by Ord. #622-A, Feb. 1997)

20-107. Agency no defense in proceeding against real estate dealer. It shall be no defense to a violation of this chapter by a real estate owner or operator, real estate broker, real estate salesman, a financial institution, or other person subject to the provisions of this chapter, that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter. (1982 Code, § 4-507, as replaced by Ord. #622-A, Feb. 1997)

20-108. Establishment of procedures for conciliation. (1) The city shall designate an agent or agents to investigate, make determinations of probable cause, and seek to conciliate apparent violations of this chapter. Conciliation efforts may be initiated by any person(s) said to be subject to discrimination as defined in this chapter.

(2) The board of mayor and aldermen shall establish a hearing committee which in turn shall adopt formal rules and procedures to hear complaints and make appropriate findings. Such procedures shall be made known to all parties of a given charge of discrimination. Hearings by the committee shall commence whenever the agent(s) acting on behalf of the city decide(s) a conciliation failure has occurred and the respondent agrees to participate in the hearing committee proceedings. Hearings open to the public may be initiated by the responding party at any time during the conciliation process. (1982 Code, § 4-508, as replaced by Ord. #622-A, Feb. 1997)

20-109. Findings of hearing committee; nature of affirmative action. (1) If the hearing committee determines that the respondent has not engaged in an unlawful practice, the committee shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the city attorney, and such other public officers and persons as the committee deems proper.

(2) If the hearing committee determines that the respondent has engaged in an unlawful practice, it shall state its findings of fact and conclusions of law and shall negotiate such affirmative action as in its judgment will carry out the purposes of this chapter. A copy of the findings shall be delivered to the respondent, the complainant, the city attorney, and such other public officials, officers, and persons as the committee deems proper.

(3) Affirmative action negotiated under this section may include, but not be limited to:

- (a) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent.
- (b) Reporting as to the manner of compliance.
- (c) Posting of notices in conspicuous places in the respondent's place of business in a form prescribed by the hearing committee.

(d) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual.

(e) Payment to the complainant of damages for injury caused by an unlawful practice, including compensation for humiliation and embarrassment, and expenses incurred by the complainant as a direct result of such unlawful practice.

(4) The provisions for conciliation and affirmative action shall not preclude or in any way impair the enforcement provisions of this chapter. (1982 Code, § 4-509, as replaced by Ord. #622-A, Feb. 1997)

20-110. Investigations, powers, records. (1) In connection with an investigation of a complaint filed under this chapter, the enforcing agent(s) at any reasonable time may request voluntary access to premises, records, and documents relevant to the complaint and may request the right to examine, photograph, and copy evidence.

(2) Every person subject to this chapter shall make, keep, and preserve records relevant to the determination of whether unlawful practices have been or are being committed, such records being maintained and preserved in a manner and to the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder.

(3) A person who believes that the application to it of a regulation or order issued under this section would result in undue hardship may apply to the hearing committee for an exemption from the application of the regulatory order. If the committee finds that the application of the regulation or order to the person in question would impose an undue hardship, it may grant appropriate relief. (1982 Code, § 4-510, as replaced by Ord. #622-A, Feb. 1997)

20-111. Conspiracy to violate this chapter unlawful. It shall be an unlawful practice for a person or for two or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under this chapter.

(2) To aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by this chapter or any order issued thereunder.

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder.

(4) To resist, prevent, impede, or interfere with the enforcing agent(s), hearing committee, or any of its members or representatives in the lawful performance of duty under this chapter. (1982 Code, § 4-511, as replaced by Ord. #622-A, Feb. 1997)

CHAPTER 2

CITY SERVICES OUTSIDE CORPORATE LIMITS

SECTION

20-201. City services outside corporate limits.

20-201. City services outside corporate limits. (1) The City of McMinnville, Tennessee, shall not provide to persons, firms, organizations, associations, corporations and the like not already receiving city services any city services, including water, sewer, fire protection, etc., but specifically excluding electrical service and mutual aid services heretofore authorized by agreement, ordinance or otherwise or hereinafter authorized, located beyond the city's corporate limits unless said person, firm, corporation or association desiring any city service which is outside of the city corporate boundaries has first petitioned the city requesting that his property be annexed into the corporation.

(2) Nothing in this chapter shall preclude, prevent or be construed to require that the city discontinue any city service now currently being provided to any person, firm, corporation or association now receiving city service outside of the corporate limits. Nor shall any part of this chapter be construed so as to require any discontinuance or increase of any city service already being furnished any person, firm, corporation or association outside of the city. (1982 Code, § 1-1401)

CHAPTER 3

OFFICIAL SEAL

SECTION

- 20-301. Description of official seal.
- 20-302. Facsimile.
- 20-303. Other ordinances revoked.
- 20-304. Contest winner.
- 20-305. Contest runner-up.

20-301. Description of official seal. From and after the final reading and passage of this ordinance,¹ the official city seal of the City of McMinnville, Tennessee, shall be a seal described as follows: At the outside edge of the circle at the top, the words "City of McMinnville" shall appear and at the bottom of the outside of the circle the word "Tennessee" shall appear. An inner dividing circular line just under the words "City of McMinnville" and over the word "Tennessee" creates an inner circle. In the inner circle is a shield and at the top of the inner circle under the "McM" of "McMinnville" is the date "1810" (the date the Town of McMinnville was first chartered). Inside the shield at the top thereof and immediately under the arabic figures "1810" is a scene of mountains, streams, sky, and trees. The large shield is divided into sections of one-third at the top and two-thirds in the lower portion. In the center of the bottom part of the top one-third of the large shield and the top two-thirds portion of the large shield is another shield with an eagle inside (representing dedication to the United States). In the left portion of the large shield as one faces the imprint thereof are two small circles with three stars on a blue background representing the State of Tennessee and the three grand divisions of the State of Tennessee. On the right portion of the bottom two-thirds of the large shield is a dogwood blossom with a short section of the stem and leave (representing the area's leading economic source). (1982 Code, § 1-1501)

¹Ord. #813 passed third reading March 28, 1989.

20-302. Facsimile. A facsimile of the official seal of the City of McMinnville, Tennessee, is reproduced in this paragraph without color. (1982 Code, § 1-1502)

20-303. Other ordinances revoked. All other ordinances adopting an official seal are hereby revoked, and the use of any other seal as the official seal of the City of McMinnville, Tennessee, from and after the final passage of this ordinance shall be discontinued, and the old seal shall be placed in the archives of the City of McMinnville. (1982 Code, § 1-1503)

20-304. Contest winner. The City of McMinnville, Tennessee, shall pay to Dawn Christian the sum of \$178.00 as the contest winner for submitting the winning design of the city seal of the City of McMinnville, Tennessee. (1982 Code, § 1-1504)

20-305. Contest runner-up. The City of McMinnville, Tennessee, shall pay to Dawn Christian, as runner-up for submitting the next best design for the official seal, the sum of \$87.00 as prize. (1982 Code, § 1-1505)

CHAPTER 4

COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

SECTION

- 20-401. Recorder to be coordinator.
- 20-402. Definition of grievance.
- 20-403. Submission of grievances; record to be maintained; decision within 10 days.
- 20-404. Handicap Resident Access Committee.
- 20-405. Duties of committee.
- 20-406. Unresolved complaints to be heard by board of mayor and aldermen.
- 20-407. Record of action to be maintained.
- 20-408. Pursuit of other remedies.

20-401. Recorder to be coordinator. The city recorder, shall coordinate and carry out compliance efforts concerning programs, services and facilities for the handicap. (1982 Code, § 1-1601)

20-402. Definition of grievance. Grievance is defined as a complaint concerning programs, services or facilities that hinder or exclude the handicap participation. Grievances only affect public property, services or programs. (1982 Code, § 1-1602)

20-403. Submission of grievances; record to be maintained; decision within 10 days. Grievances shall be submitted in writing to the city administrator for resolution. The grievance must include (1) specific problem or problems, (2) location, (3) address and phone number of the person filing the complaint, (4) complaints must be signed by the person requesting the investigation. A record will be maintained of these complaints and the action taken. A decision will be rendered within 10 working days. (1982 Code, § 1-1603)

20-404. Handicap Resident Access Committee. If the complaint cannot be resolved to the satisfaction of the complainant by the city administrator, it will be forwarded to the "Handicap Resident Access Committee". The handicap resident access committee shall be appointed by the mayor. (1982 Code, § 1-1604)

20-405. Duties of committee. The committee shall hear complaints, requests or suggestions from or concerning handicapped persons regarding access to public facilities, services, programs, activities, and functions in the community. Further, the committee shall be directed to hear such complaints in public after adequate public notice, in an unbiased, objective manner, and to make a written decision within 30 days of notification. (1982 Code, § 1-1605)

20-406. Unresolved complaints to be heard by board of mayor and aldermen. If the complaint cannot be resolved to the satisfaction of the complainant by the handicap resident access committee, such complaint shall be heard by the board of mayor and aldermen at a public meeting and a determination made within 30 days after a decision on the request or complaint. The decision of the board of mayor and aldermen shall be final. (1982 Code, § 1-1606)

20-407. Record of action to be maintained. A record of action taken of each request or complaint shall be maintained as a part of the records or minutes at each level of the grievance process. (1982 Code, § 1-1607)

20-408. Pursuit of other remedies. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies. (1982 Code, § 1-1608)

CHAPTER 5

EMERGENCY OPERATIONS PLAN

SECTION

20-501. Emergency operations plan adopted.

20-502. Amendments.

20-503. Chief administrative officer.

20-504. Violations.

20-501. Emergency operations plan adopted. An Emergency Operations Plan prepared for the City of McMinnville, Tennessee, for the purpose of devising a plan to be implemented during a civil emergency, as that term is defined at Tennessee Code Annotated, section 38-9-101(2), to get the best response possible from available emergency services and offer the maximum aid and protection to citizens, in words and figures of the Emergency Operations Plan attached to this ordinance as Exhibit 1¹ and made a part of this chapter by reference as fully as if copied herein verbatim be and is hereby adopted. (Ord. #1155, July 1995)

20-502. Amendments. The provisions contained in the said Emergency Operations Plan may be changed, altered, amended, deleted, modified, revoked, rescinded or repealed by the Board of Mayor and Aldermen of the City of McMinnville. (Ord. #1155, July 1995)

20-503. Chief administrative officer. The chief administrative officer of the City of McMinnville, for the purpose of implementing the provisions of Tennessee Code Annotated, sections 38-9-101 et. seq., and the Emergency Operations Plan, shall be the mayor of the municipality, or in his absence or disability, the vice mayor, or in the absence or disability of both the mayor and the vice mayor, the city administrator; when, in the judgment of the mayor and/or city administrator, a civil emergency is determined to exist, he/she shall forthwith proclaim in writing the existence of the same, a copy of which proclamation will be filed with the city recorder, and shall be further authorized to exercise the powers granted to him/her by state law. (Ord. #1155, July 1995)

20-504. Violations. Any person violating the provisions of orders issued by the mayor and/or the vice mayor and/or the city administrator pursuant to this authorization during a proclaimed civil emergency shall be in violation of this chapter and shall be punished under the general penalty clause of the McMinnville Municipal Code or other applicable general law. (Ord. #1155, July 1995)

¹See Exhibit 1 to Ord. No. 1155 (July 1995) of record in the office of the recorder.

CHAPTER 6

CITY OF McMINNVILLE TREE AND LANDSCAPE PROTECTION ORDINANCE

SECTION

- 20-601. Purpose.
- 20-602. Authority and power.
- 20-603. Applicability.
- 20-604. Permit to work.
- 20-605. Trees and rights of way, public property, and roadsides.
- 20-606. Tree protection and maintenance.
- 20-607. Definitions.

20-601. Purpose. It is the purpose of this ordinance to protect and maintain the well being of this city and the residents through protection and maintenance of city owned trees and landscaping.

A healthy, diverse, and well-managed urban forest is an important asset to the present and future aesthetic, economics, natural resource protection, public safety and overall well being of the city. This public resource must be managed with a comprehensive, long-term plan of protection, establishment, maintenance, and education. (as added by Ord. #1379, May 2001)

20-602. Authority and power. The department of urban forestry and land management is responsible for the care and management of all city owned trees and landscaping.

(1) The department of urban forestry and land management has the responsibility to plan, establish, protect, and maintain new city plantings regardless of present or previous land use.

(2) The department of urban forestry and land management and designated volunteers or contractors have the right to plant, maintain, or remove any tree, landscaped, or un-maintained vegetation on city owned property.

(3) A public committee of three to seven interested persons or group representatives will be organized to serve as the "tree advisory board." This board will advise the city and department of urban forestry and land management in desired future direction for this department.

(a) Members will serve two-year terms to help insure all projects and proposals are completed. Two initial members will serve for one year, two will serve for two years, three may serve one or two years based on board decision. A minimum of three members is necessary for continuation of the board.

(b) This board will assist with public support, education, and planning. They will not decide day-to-day operations of the department of urban forestry and land management.

(c) The mayor and aldermen will each select a tree board member to establish the first board. Notice will be given so the public may announce their desire to participate or join the board. Two months from the passing of this ordinance will be the time limit for choosing tree board members. All future board members will be chosen by vote of the tree advisory board.

(d) Tree board members will serve without compensation.

(e) Status as a non-profit group should be obtained to assist with funding requests and trust establishment.

(4) The department of urban forestry and land management is responsible for enforcement of tree and landscape protection guidelines.

(a) The department of urban forestry and land management, specifically the urban forester, has the authority to inspect, stop, or change how a contractor is working if it affects trees, shrubs, landscaping, or soil on city property.

(b) The urban forester has the authority to inspect and change zoning or permit applications that require landscape plans or may affect city owned property. A site inspection of landscaping details will be made upon zoning office request.

(c) Any city employee or private contractor planning work that may affect existing or planned city trees and/or landscaping shall contact the department of urban forestry and land management for guidelines before any work is started.

(5) Privately owned trees or landscaping that might affect city owned trees, landscaping, or property may be a danger to life or property. Authority is given to investigate, assess, inform, and in extreme situations correct situations involving privately owned trees for safety and continued health of any person, private property, or publicly owned plants and property. These trees, shrubs, plants, or plant parts will be designated as a "public nuisance." These problems are defined as; any tree, plant, or shrub with an infectious disease or insect problem, dead and/or dying trees, tree/shrub/plant or limb(s) obstructing street lights, traffic signs, passage of pedestrians or traffic, tree roots causing sidewalk problems, or threat to the safety of individuals or property. The department of urban forestry and land management will only look for "obvious" problems from the street or public right of way. The public or other city employees and officials may report problems to the department of urban forestry and land management. Notification will be made to property owner with information on problem, level of hazard will be identified, and time frame for abatement. Levels of hazard are immediate, urgent, direct, and safety. The International Society of Arboriculture Tree Hazard Evaluation Form (2nd edition) or the rating by the Urban Forester will be used to assess hazard level. The city has the authority to correct immediate or urgent nuisance trees, at the owner's expense, if the time allowed has lapsed and/or the homeowner ignores notices.

(6) Appeals concerning any public land work in the planning stage, work requests, or hazard situations must be made first to the urban forester.

If the urban foresters decision is unacceptable, a meeting can be held with the urban forester, tree advisory board, alderman committee, or any interested parties to present their case and assess the situation. These meetings with the city forester will be within 2 weeks of complaint. Meetings with the tree advisory board or building and grounds aldermanic committee will be set based on their schedule. (as added by Ord. #1379, May 2001)

20-603. Applicability. All city owned property is included under this ordinance. Private trees and landscaping affecting public safety and health of the residents or natural resources of the City of McMinnville is included under this ordinance. Private trees and landscaping that may affect local agricultural crops are included in this ordinance. (as added by Ord. #1379, May 2001)

20-604. Permit to work. In order to protect the private property and all city owned trees and landscaping from irresponsible contractors, a permit system shall be set up to ensure that all tree care companies and contractors working within the city limits are insured to acceptable standards. The permit will check for insurance covering workers compensation, liability, bodily injury, and property damage.

(1) The permit fee will be evaluated yearly by the aldermanic committee and the tree advisory board. The initial cost is set at thirty dollars. Permits must be obtained on a yearly basis from first permit approval. The time limit to obtain a permit is ninety days from receipt of notification. If permit is not obtained after ninety days, notice will again be given with a ten-day limit. Every six months a new list will be created and business owners may apply at that time.

(2) Each applicant shall file evidence of appropriate workers compensation insurance and public liability insurance in a minimum amount of \$1,000,000 for bodily injury or death, and \$100,000 for property damage.

(3) Proof of valid insurance shall be supplied to the city forester every six months from the date of initial permit application.

(4) A list of these permitted contractors will be developed for public information purposes and provided free to the citizens of Warren Co. Tree care companies with state or nationally recognized training or certifications will be recommended.

(5) Any tree work contracted by the city must be with a fully insured contractor who conforms to all state and federal safety laws. On any public tree trimming contracts, the department of urban forestry and land management will hire well-trained tree care professionals with ISA or NAA training and a certified arborist on the crew or the urban forester will supervise and train crew leaders. (as added by Ord. #1379, May 2001)

20-605. Trees and rights of way, public property and roadsides. This section will cover all city owned property, new private plantings affecting city owned property, and any area that zoning rules require a site plan.

These rules shall be followed for all city projects by any department. These rules should be used by home and business owners to improve and maintain their personal safety, property values, and overall city benefit.

(1) Tree, shrub, or any landscape plantings on private property must meet certain guidelines for public safety. Refer to McMinnville Municipal Code 14-205.7¹ for obstruction to vision guidelines. Private plantings at time of establishment and future growth must conform to these regulations.

(2) Trees and landscaping should not be allowed to obstruct street signs, traffic lights, vision at traffic corners, or streetlights. Unobstructed view is based on normal approach along road or highway to sign, traffic light, or intersection. Street lights have defined angles of coverage that will be used to decide if light coverage is obstructed.

(a) Traffic control. Trees and landscaping problems will be handled by the department of urban forestry and land management.

(i) Unobstructed view of stop, yield or other traffic control signs to thirty-five feet.

(ii) Unobstructed view of street name signs to twenty-five feet.

(iii) Unobstructed view of traffic control lights to forty-five feet.

(b) Public utilities. Above and below ground utility lines are maintained by managing companies. To maintain reliable and consistent electrical, phone, cable, water, and gas service, certain guidelines shall be followed to reduce potential future problems. Any city owned tree that may affect utility lines, will be removed and replaced with desirable species for that location. Future plantings will follow certain guidelines.

(i) Large trees may not be planted closer than 50' lateral feet to overhead electric distribution lines. Medium trees may not be planted closer than 30' lateral feet to overhead electric distribution lines. Small trees may be planted under overhead electric distribution lines. Line height shall be established to ensure maximum height of planted tree will stay lower than minimum distance allowed to powerlines.

(ii) No small or medium tree may be planted closer than five feet to a known underground utility pipeline. No large tree may be planted closer than ten feet.

(c) Street lighting. Existing tree and landscaping problems will be handled by the department of urban forestry and land management.

(i) Large sized trees may not be planted closer than 75 lateral feet;

(ii) Medium sized trees may not be planted closer than 50 lateral feet;

¹Section 14-205.7 is part of the zoning ordinance and is of record in the office of the recorder.

(iii) Small sized trees may not be planted closer than 30 lateral feet.

(d) Fire hydrants. Existing tree and landscaping problems will be handled by the department of urban forestry and land management.

(i) No tree, shrub, or obstruction that would restrict access of any fire hydrant will be allowed for a ten-foot radius. (as added by Ord. #1379, May 2001)

20-606. Tree protection and maintenance. Applies to city owned trees only. These rules will be for the protection of city owned vegetation, public safety, and any overall city benefit.

(1) No person shall intentionally damage, cut, carve, transplant, or remove any tree; attach any rope, wire, nails, advertisements, posters, or other contrivance to any tree, allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

(2) No person shall deposit, place, store, or maintain upon any public place of the city, any stone, brick, sand, concrete, or other materials that may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein. This covers all forms of damage whether unintentional or deliberate.

(3) Sunlight to any public tree cannot be permanently blocked by placement of materials such as a new building or signs. Blocked sunlight is defined as loss of more than 1/3 by area or time of existing sunlight.

(4) Unintentional damage (car accident, house fire, etc...) will still be subject to repair, maintenance, and replacement costs.

(5) All repair, maintenance, and replacement costs to the damaged vegetation shall be levied to the person(s) or business responsible for the damage. Repair, replacement, and maintenance will be completed by the department of urban forestry and land management. The city forester will establish costs to repair, replace, and maintain vegetation.

(6) Any construction or land disturbing activity in the general area of any public tree or landscaping or its critical root zone must follow protection guidelines as specified by the urban forester.

(7) All tree, shrub, and other landscaping maintenance on public land should be done with the approval of the urban forester or by the urban forestry department. This maintenance shall meet or exceed International Society of Arboriculture, ANSI A300 Pruning and Fertilization, or National Arborist Association standards. Contact the department of urban forestry and land management for recent copies of these documents.

(8) The practice of topping, tipping, rounding, or other names is strictly forbidden on any city owned tree. The excessive and arbitrary removal of all parts of the tree beyond a certain height with no regard for structure or natural growth pattern is defined as topping. Tipping and rounding is the cutting back of all limbs to a certain length or shape and creates the same problems as topping. Any tree damaged to the point of needing more than one

half of the crown removed, shall be removed and replaced. Topping or shaping is strongly discouraged on private trees. (as added by Ord. #1379, May 2001)

20-607. Definitions. (1) "Small trees." 0-25' tall--at maturity--A list of acceptable species can be obtained from the Department of Urban Forestry and Land Management.

(2) "Medium trees" 25-50' tall--at maturity--A list of acceptable species can be obtained from the Department of Urban Forestry and Land Mangement.

(3) "Large trees." 50' plus tall--at maturity--A list of acceptable species can be obtained from the Department of Urban Forestry and Land Management.

(4) "Root protection zone." The area around a tree with primary support roots and enough feeder roots to serve the tree if all other roots are cut. At minimum, the dripline of the tree canopy (for deciduous, non-columnar trees). Recommended rule is one foot of radius for every inch diameter measured at 4.5' off the ground on uphill side of the tree. This is variable based on conditions.

(5) "Critical root zone." The minimum root protection zone for the survival of the tree. Trees under 6" caliper will be based on nursery guidelines. Trees over 6" caliper will be based on site and tree condition decided by the city forester.

(6) "Drip line." The outer edge of the canopy around the entire tree.

(7) "Immediate hazard." A tree with a very high chance of failure that would affect personal health or property. This also includes insect or disease problems that are considered a major concern to the entire county. The tree is expected to fall with no warning at any time or during extreme weather.

(8) "Urgent hazard." A tree with a high chance of failure that would affect personal health or property. The tree will fall over a small period of time or when weather conditions are extreme.

(9) "Direct hazard." Any tree with a medium to very high chance of failure that would affect only the owners health or property.

(10) "Safety hazard." Any tree, shrub, plant, or part of creating a safety hazard for the general public. Tree failure is not a concern but obstruction of view, access, passage, or use is the concern. (as added by Ord. #1379, May 2001)

City of McMinnville, Tennessee



ORDINANCE NO. 1171

AN ORDINANCE adopting and enacting a codification and revision of the ordinances of the City of McMinnville, Tennessee; and to express the time for the ordinance to become effective.

WHEREAS, some of the ordinances of the City of McMinnville are obsolete; and,

WHEREAS, some of the other ordinances of the City are inconsistent with each other or are otherwise inadequate; and,

WHEREAS, the Board of Mayor and Aldermen of the City of McMinnville, 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 "McMinnville Municipal Code".

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MCMINNVILLE, 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 "McMinnville Municipal Code," hereinafter referred to as the "municipal code".

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring

the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuing of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other

punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty".

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The Board of Mayor and Aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have

requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately following 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 and/or the City Tax 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 and the publication of this ordinance and/or its caption, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed first reading: September 5, 1995

Passed second reading: September 18, 1995

Shirley J. Hickman
Recorder

APPROVED:

Norman W. Rone, O.D.
Mayor

APPROVED AS TO FORM:

City Attorney

Published in the Southern Standard edition of September 24, 1995.

City of McMinnville, Tennessee



ORDINANCE NO. 1286

AN ORDINANCE adopting and enacting supplemental and replacement pages for the (1995) Municipal Code of the City of McMinnville, Tennessee.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MCMINNVILLE, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in Change 1 to the City of McMinnville Municipal Code, hereinafter referred to as the "supplement", are incorporated by reference as if fully set out herein and are ordained and adopted as part of the City of McMinnville Municipal Code.

Change 1 includes revisions required to the municipal code when considering Ordinance No. 622A (February 1997); Ordinance No. 1087 (December 1993); and Ordinance No. 1095 (November 1993) through Ordinance No. 1254 (July 1997). Code sections affected by these ordinances contain citations to the amending ordinance at the end of the code section.

Section 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be a civil offense, or wherever the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision shall be punishable by a penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the

imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the supplement or the municipal code or other applicable law. In any place in the supplement the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this supplement, it shall mean "it shall be a civil offense". Anytime the word "fine" or similar term appears in the context of a penalty provision of this supplement, it shall mean "a civil penalty".

When a civil penalty is imposed on any person for violating any provision of the supplement and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 6. Code available for public use. One copy of the supplement shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 7. Date of effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed first reading: March 16, 1998

Passed second reading: April 6, 1998

Shuling Huham
City Recorder

APPROVED:

Norman W. Rone, Jr.
Mayor

APPROVED AS TO FORM:

City Attorney

Published in the Southern Standard edition of April 12, 1998.