

**THE
DECHERD
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service
In cooperation with the Tennessee Municipal League

April 2018

Change 2
April 9, 2024

CITY OF DECHERD, TENNESSEE

MAYOR

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PREFACE

The Decherd Municipal Code contains the codification and revision of the ordinances of the City of Decherd, 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 § 2-106.

By utilizing the table of contents, code index 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 recorder for a comprehensive and up to date review of the city's ordinances.

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of the codes team: Kelley Myers and Nancy Gibson is gratefully acknowledged.

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

SEC. 15. (b) Ordinance Procedures. All ordinances shall begin with the clause, "Be it ordained by the Board of Aldermen of the City of Decherd, Tennessee," an ordinance may be introduced by any member of the board. The body of ordinances may be omitted from the Minutes on the first reading, but reference therein shall be made to the ordinance by title and/or subject matter. Every ordinance shall be passed on three different days, at regular, special or adjourned meetings. Except in the ordinance adopting the budget, no material or substantial amendment may be made on final passage, unless such amendment be passed in the same manner as an amendment to an existing ordinance. Every ordinance shall be effective upon final passage unless by its terms the effective date is deferred.

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. CITY COUNCIL.
2. MAYOR.
3. RECORDER.
4. CITY ADMINISTRATOR.
5. CODE OF ETHICS.
6. ELECTIONS.

CHAPTER 1

CITY COUNCIL²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Passage of ordinances.
- 1-105. Department heads to attend city meetings.

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.

²Charter references

Appropriations of moneys: § 15.

Compensation: § 3.

Composition: § 3.

Powers: § 5.

Qualifications: § 3.

Quorum: § 9.

1-101. Time and place of regular meetings. The city council shall hold regular monthly meetings at 7:00 P.M. on the first Tuesday of each month at the city hall. (1993 Code, § 1-101, as amended by Ord. #450, April 2023 *Ch2_04-09-24*)

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

- (1) Call to order by the mayor;
- (2) Roll call by the recorder;
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction;
- (4) Grievances from citizens;
- (5) Communications from the mayor;
- (6) Reports from committees, members of the city council, and other officers;
- (7) Old business;
- (8) New business; and
- (9) Adjournment. (1993 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in *Robert's Rules of Order, Newly Revised*, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1993 Code, § 1-103)

1-104. Passage of ordinances. All ordinances must be introduced in written form and approved by the city council on three (3) different days before becoming effective in accordance with their terms. (1993 Code, § 1-104)

1-105. Department heads to attend city meetings. The board of mayor and aldermen has the need to provide the department heads information to assist in completing or investigating the concerns of citizens brought forth in City of Decherd meetings, do hereby require all department heads of the City of Decherd to attend relevant meetings to their department. (as added by Ord. #430, March 2021 *Ch2-04-09-24*)

CHAPTER 2**MAYOR¹****SECTION**

1-201. General authority.

1-202. Executes city's contracts.

1-201. General authority. The mayor shall be the chief legislative officer of the city and have general supervision of all municipal affairs. The mayor may conduct inquiries and investigations into the affairs of the city and may require such reports from the officers and employees as the mayor deems reasonably necessary. The mayor shall create committees as needed and make appointments to committees, boards and commissions as provided by the charter or municipal code and shall report such appointments to the council at its next regular meeting. The mayor will conduct routine evaluations of the city administrators performance on behalf of the board of aldermen and report to the board its findings for any actions that may be needed. The mayor shall have such other powers and duties as may be necessary to carry out the mayor's executive duties not inconsistent with the charter or municipal code. The office of mayor shall not be abolished, nor shall the mayor's authority, as provided in this ordinance, be reduced. (as added by Ord. #O1-24, Feb. 2024 *Ch2_04-09-24*)

1-202. Executes city's contracts. The mayor shall execute all contracts as authorized by the city council. (1993 Code, § 1-202, as renumbered by Ord. #O1-24, Feb. 2024 *Ch2-04-09-24*)

¹Charter references

Bond: § 12.

Duties: § 10.

Term of office: § 6.

Veto powers: § 10.

CHAPTER 3**RECORDER¹****SECTION**

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by the city council, and with such surety as may be acceptable to the council. (1993 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the city council and shall preserve the original copy of all ordinances in a separate ordinance book. (1993 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the city council and for the city which are not assigned by the charter, this code, or the city council to another corporate officer. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1993 Code, § 1-303)

¹Charter references

Bond: § 12.

Collection of delinquent taxes: §§ 5(7) and 13.

Powers and duties: § 10.

Tax books: § 16.

Term of office: § 6.

The City of Decherd adopts by reference the requirements of Public Acts 1994, chapter 648, and it is made a part hereof as if it were fully set out.

CHAPTER 4**CITY ADMINISTRATOR****SECTION**

1-401. Powers and duties.

1-401. Powers and duties. The powers and duties of the city administrator shall be as follows:

(1) To see that all laws and ordinances, subject to enforcement by him or by officers subject to his direction, are enforced, and upon knowledge or information of any violation thereof to see that prosecutions are instituted;

(2) To attend all board meetings and to have the right to take part in any discussions, but not to vote;

(3) To assist in preparing and submitting an annual operating budget and an annual capital budget to the board prior to the beginning of the fiscal year;

(4) To submit to the board a complete report on the financial conditions of the city at the end of fiscal year and at such other times as may be required by the board;

(5) To make other reports on the activities of the city as the city board may require or as he sees the need for and to make such recommendations as, in his opinion, are necessary to improve the effectiveness and efficiency of the city's operations or as are needed for the overall good of the city;

(6) To act as purchasing agent for the city, purchasing all materials, supplies, and equipment needed by the city in accordance with the state's purchasing laws and procedures;

(7) To perform other duties as required by the city charter or the city board; and

(8) To have general supervision of all city employees, execute annual performance reviews of all department heads and act as human resource officer for the city. (1993 Code, § 1-401, as amended by Ord. #364, March 2012, and Ord. #O1-04, Feb. 2024 ***Ch2_04-09-24***)

CHAPTER 5

CODE OF ETHICS

SECTION

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in nonvoting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.
- 1-510. Ethics complaints.
- 1-511. Violations and penalty.

1-501. Applicability. This chapter constitutes the code of ethics for officials and employees of the City of Decherd. 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. (1993 Code, § 1-501)

1-502. Definition of "personal interest." 1. For purposes of this section and § 1-503, "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;

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), grandparent(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 the state law take precedence over the provisions of this chapter. (1993 Code, § 1-502)

1-503. 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. (1993 Code, § 1-503)

1-504. 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. (1993 Code, § 1-504)

1-505. 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. (1993 Code, § 1-505)

1-506. Use of information. 1. An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

2. An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (1993 Code, § 1-506)

1-507. Use of municipal time, facilities, etc. 1. An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

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. (1993 Code, § 1-507)

1-508. 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. (1993 Code, § 1-508)

1-509. 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 provision of the city's charter or any ordinance or policy. (1993 Code, § 1-509)

1-510. 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 council 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 council, the city council 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 council.

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. (1993 Code, § 1-510)

1-511. Violations and penalty. 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 council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (1993 Code, § 1-511)

CHAPTER 6

ELECTIONS

SECTION

1-601. Absentee voting.

1-601. Absentee voting. All persons residing outside the corporate limits of the City of Decherd who own real property within the corporate limits of the City of Decherd and who are entitled to vote in City of Decherd municipal elections pursuant to Decherd City Charter chapter 318, § 6, subsection (c), and other general law requirements, shall cast their ballot in City of Decherd municipal elections by absentee by mail ballots. (Ord. #376, Dec. 2013)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

(RESERVED FOR FUTURE USE)

TITLE 3**MUNICIPAL COURT****CHAPTER****1. CITY COURT.****CHAPTER 1****CITY COURT****SECTION**

- 3-101. City judge.
- 3-102. Jurisdiction.
- 3-103. Maintenance of docket.
- 3-104. Issuance of summonses.
- 3-105. Issuance of subpoenas.
- 3-106. Trial and disposition of cases.
- 3-107. Imposition of fines, fees, penalties, and court costs.
- 3-108. Appeals.
- 3-109. Bond amounts, conditions, and forms.
- 3-110. Disposition and report of fines, penalties, and costs.
- 3-111. Disturbance of proceedings.
- 3-112. Court costs.

3-101. City judge. Under the authority of *Tennessee Code Annotated*, § 16-18-101, *et seq.*, the office of city judge is established subject to the following requirements.

(1) The municipal judge shall be vested with the judicial powers and functions of the city recorder and shall be subject to the provisions of law and the city's charter governing the court presided over by the city recorder.

(2) The city judge shall have the following qualifications:

- (a) Be a high school graduate;
- (b) Be a resident of Franklin County for three (3) years;
- (c) Be at least thirty (30) years of age;
- (d) Must be willing to submit and pass a psychological evaluation administered by a registered/licensed psychologist, to be required at the city council's discretion; and
- (e) No history of misdemeanor violations and conviction(s) of felony offenses.

Any person previously holding this position prior to passage of this chapter would be grandfathered in.

(3) The city judge shall be appointed by the city council and serve at the pleasure of the city council.

(4) Vacancies in the office shall be filled for the unexpired term by the city council.

(5) The city judge shall take the oath of office prescribed in § 9 of the city charter, and shall be bonded in an amount to be fixed by the city council.

(6) The cost of making the bond of the city judge shall be paid by the city.

(7) The salary of the city judge shall be fixed by the city council before his appointment and shall not be altered during his term of service.

(8) The city judge or mayor shall designate a person having the same qualifications listed in subsections (2)(a), (b), (c), (d), and (e) above to serve as city judge during his absence or disability. (1993 Code, § 3-101)

3-102. Jurisdiction. The city judge shall have the authority to try persons charged with the violation of municipal ordinances and to punish persons convicted of such violations by levying a civil penalty not to exceed fifty dollars (\$50.00). (1993 Code, 3-102, modified)

3-103. 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; and all other information that may be relevant. (1993 Code, 3-103, modified)

3-104. Issuance of summonses.¹ When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing 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. (1993 Code, 3-105, modified)

3-105. 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

¹Municipal code reference

Issuance of citations in lieu of arrest by public officer in traffic cases: title 15, chapter 7.

lawfully served with such a subpoena to fail or neglect to comply therewith. (1993 Code, § 3-106)

3-106. 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. (1993 Code, § 3-107)

3-107. Imposition of fines, fees, penalties, and court costs. All fines, fees, penalties, and court costs shall be established by the board of mayor and aldermen from time to time by ordinance. The city judge shall impose fines, penalties, and costs on the city court docket in open court. (1993 Code, § 3-109)

3-108. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) entire days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1993 Code, § 3-110)

3-109. Bond amounts, conditions, and forms. An appeal bond in any case shall be in the sum of two hundred fifty dollars (\$250.00) and shall be conditioned that, if the circuit court shall find against the appellant, the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1993 Code, § 3-111, modified)

3-110. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the court clerk 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 city council a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1993 Code, § 3-112, modified)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

3-111. 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, or by any distracting conduct whatsoever. (1993 Code, § 3-113, modified)

3-112. Court costs. The Town of Decherd Municipal Code, imposition of penalties and costs in all cases heard and determined by the city judge, the following court costs and fines shall be imposed:

(1) Court costs in all cases, unless otherwise provided, shall be one hundred twenty dollars (\$120.00). Such court cost shall not include other statutorily authorized fees, such as interest, litigation tax that may be applied pursuant to state law.

(2) The maximum fine imposed shall be fifty dollars (\$50.00), unless state law requires a lesser fine.

(3) One dollar (\$1.00) of the court cost in each case shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts pursuant to *Tennessee Code Annotated* § 16-8-304. (Ord. #403, July 2017, as amended by Ord. #438, Feb. 2022 **Ch2_04-09-24**, and Ord. #453, Nov. 2023 **Ch2_04-09-24**)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL RULES AND REGULATIONS.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

PERSONNEL RULES AND REGULATIONS

SECTION

4-101. Authority.

4-101. Authority. The Mayor and Aldermen of the City of Decherd, Tennessee may provide for personnel rules and regulations by resolution. (Ord. #365, June 2012)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-201. Title.
- 4-202. Purpose.
- 4-203. Coverage.
- 4-204. Standards authorized.
- 4-205. Variances from standards authorized.
- 4-206. Administration.
- 4-207. Funding the program.

4-201. Title. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Decherd. (Ord. #374, Sept. 2013, as replaced by Ord. #423, Dec. 2019 *Ch2_04-09-24*, and Ord. #434, July 2021 *Ch2_04-09-24*)

4-202. Purpose. The City of Decherd in electing to update the established program plan will maintain an effective and comprehensive Occupational Safety and Health Program Plan for its employees and shall:

(1) Provide a safe and healthful place and condition of employment that includes:

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;
- (c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and
- (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

¹The Plan of Operations for the Occupational Safety and Health Program for the City of Decherd is included as Appendix A at the end of this code.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the State.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this Program Plan. (Ord. #374, Sept. 2013, as replaced by Ord. #423, Dec. 2019 **Ch2_04-09-24**, and Ord. #434, July 2021 **Ch2_04-09-24**)

4-203. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the City of Decherd shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (Ord. #374, Sept. 2013, as replaced by Ord. #423, Dec. 2019 **Ch2_04-09-24**, and Ord. #434, July 2021 **Ch2_04-09-24**)

4-204. Standards authorized. The occupational safety and health standards adopted by the City of Decherd are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (*Tennessee Code Annotated*, title 50, chapter 3). (Ord. #374, Sept. 2013, as replaced by Ord. #423, Dec. 2019 **Ch2_04-09-24**, and Ord. #434, July 2021 **Ch2_04-09-24**)

4-205. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by *Tennessee Code Annotated*, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our 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 shall be deemed sufficient notice to employees. (Ord. #374, Sept. 2013, as replaced by Ord. #423, Dec. 2019 **Ch2_04-09-24**, and Ord. #434, July 2021 **Ch2_04-09-24**)

4-206. Administration. For the purposes of this ordinance, codes official, is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by *Tennessee Code Annotated*, title 50. (Ord. #374, Sept. 2013, as replaced by Ord. #423, Dec. 2019 **Ch2_04-09-24**, and Ord. #434, July 2021 **Ch2_04-09-24**)

4-207. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this ordinance shall be made available as authorized by the City of Decherd Board of Mayor and Aldermen. (Ord. #374, Sept. 2013, as replaced by Ord. #423, Dec. 2019 **Ch2_04-09-24**, and Ord. #434, July 2021 **Ch2_04-09-24**)

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

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

CHAPTER 1**PROPERTY TAXES****SECTION**

- 5-101. When due and payable.
5-102. When delinquent--penalty and interest.
5-103. Collection of delinquent taxes.

5-101. When due and payable.² Taxes levied by the city against real and personal property shall become due and payable annually to the City of Decherd on the first Monday of October of the year for which levied. (1993 Code, § 5-101, modified)

¹Charter references

Corporate taxes: § 16.
Delinquent taxes: § 13.

²State 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.

5-102. When delinquent--penalty and interest.¹ All real property taxes shall become delinquent on and after the first day of March next after they become due and payable, and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.² (1993 Code, § 5-102)

5-103. Collection of delinquent taxes. The city may collect delinquent personal property taxes by distraint (distress warrant) under the procedures set out in *Tennessee Code Annotated*, § 67-5-2003. (Ord. #356, Jan. 2011)

¹Charter 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 one-half of one percent (0.5%) and interest of one percent (1%) shall be added on the first day of March following the tax due date and on the first day of each succeeding month.

²Charter and state law references

A municipality has the option of collecting delinquent property taxes any one (1) of three (3) ways:

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

CHAPTER 2

PRIVILEGE TAXES¹

SECTION

5-201. Tax levied.

5-202. License required.

5-201. 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 of Decherd at the rates and in the manner prescribed by the said act. (1993 Code, § 5-201)

5-202. License required. No person shall exercise any such privilege within the City of Decherd without a currently effective privilege license, which shall be issued by the mayor to each applicant therefor upon such applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1993 Code, § 5-202)

¹Municipal code reference

For privilege tax provisions for on-premises consumption of alcoholic beverages and the recorder's responsibility see title 8, chapter 3.

CHAPTER 3**WHOLESALE BEER TAX****SECTION**

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the Wholesale Beer Tax Act, as set out in *Tennessee Code Annotated*, title 57, chapter 6.¹ (1993 Code, § 5-301)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of thirty-five dollars and sixty cents (\$35.60) per barrel on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

CHAPTER 4

LITIGATION TAX

SECTION

5-401. Litigation tax.

5-401. Litigation tax. 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 as already stated in § 3-108 of the Decherd Municipal Code. Such costs shall be payable directly to the City of Decherd, and shall be assessed against all cases within the jurisdictional limit of the City of Decherd, Tennessee. Provided further, that this section shall also conform to the provisions of section 5 of the city charter.

A litigation tax of thirteen dollars and seventy-five cents (\$13.75) shall be assessed and taxed as part of the costs in all civil cases instituted in the city court of Decherd, Tennessee.

Further, a litigation tax of fifteen dollars (\$15.00) be assessed and taxed as part of the costs in all criminal actions originating in the city court of Decherd, Tennessee.

The city recorder/city judge of said court shall collect said litigation tax and shall disburse from the litigation tax collected as follows:

(1) Thirteen dollars and seventy-five cents (\$13.75) of each litigation tax collected on civil cases shall go directly to the City of Decherd General Fund to aid in the operation and maintenance of the city.

(2) Fifteen dollars (\$15.00) of each litigation tax collected on criminal cases shall go to the City of Decherd General Fund to aid in the operation and maintenance of the city.

All expenditures made by the city from said funds shall be with the approval of the city council.

All litigation taxes contained in this amendment shall not be transferred unless actually collected. (1993 Code, § 5-401, modified)

CHAPTER 5

PURCHASING PROCEDURES

SECTION

5-501. Office of purchasing agent created.

5-502. Duties of purchasing agent.

5-503. Changes to purchasing procedures.

5-504. Additional regulations to the 1983 Purchasing Law.

5-505. Utility district purchasing policy.

5-501. Office of purchasing agent created. As provided in *Tennessee Code Annotated*, § 6-56-301 *et seq.*, the office of purchasing agent is hereby created and the city recorder shall faithfully discharge the duties of said office or appoint an individual to make purchases for the City of Decherd. Purchases shall be made in accordance with the Municipal Purchasing Law of 1983 and amendments thereto, this chapter, and purchasing procedures approved by the governing body. (1993 Code, § 5-501)

5-502. Duties of purchasing agent. The purchasing agent, or designated representative as provided herein, shall purchase materials, supplies, services, and equipment, provide for leases and lease-purchases and dispose of surplus property in accordance with purchasing procedures approved by the governing body and filed with the city recorder. (1993 Code, § 5-502)

5-503. Changes to purchasing procedures. After initial approval by resolution of the governing body of the City of Decherd, changes or revisions to the purchasing procedures shall be made by resolution. (1993 Code, § 5-503)

5-504. Additional regulations to the 1983 Purchasing Law. All purchases over two hundred fifty dollars (\$250.00) shall require a purchase order before purchase. Any item over seven hundred fifty dollars (\$750.00) is required to be backed up by written bids. Advertised sealed bids are required for items of twenty five thousand dollars (\$25,000.00) or more except in an emergency. (1993 Code, § 5-504, as replaced by Ord. #O2-04, March 2024 *Ch2_04-09-24*)

5-505. Utility district purchasing policy. Utility district purchasing procedures are governed by ordinance.¹ (1993 Code, § 5-505)

¹The utility district purchasing procedures ordinance, and any amendments thereto, are of record in the office of the recorder.

TITLE 6**LAW ENFORCEMENT****CHAPTER****1. POLICE AND ARREST.****CHAPTER 1****POLICE AND ARREST¹****SECTION**

- 6-101. Police officers subject to chief's orders.
- 6-102. Police officers to preserve law and order, etc.
- 6-103. Police officers to wear uniforms and be armed.
- 6-104. When police officers to make arrests.
- 6-105. Police officers may require assistance.
- 6-106. Disposition of persons arrested.
- 6-107. Deposit of license in lieu of bail.
- 6-108. Police department records.
- 6-109. Mutual aid agreement with other local governments.

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1993 Code, § 6-101)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (1993 Code, § 6-102)

6-103. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the city council shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1993 Code, § 6-103)

¹Municipal code reference

False alarms ordinance: title 20, chapter 2.

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

6-104. When police officers to make arrests.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

- (1) Whenever he is in possession of a warrant for the arrest of the person;
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person; and
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1993 Code, § 6-104)

6-105. Police officers may require assistance. It shall be unlawful for any person to willfully refuse to aid a police officer in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the police officer and is reasonably necessary. (1993 Code, § 6-105)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness, he shall be brought before the court for immediate trial or allowed to post bond. When the arrested person is drunk or when the judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1993 Code, § 6-106, modified)

6-107. Deposit of license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The

¹Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the city court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of *Tennessee Code Annotated*, § 55-50-801, *et seq.* (1993 Code, § 6-107)

6-108. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

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

(2) All arrests made by police officers; and

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1993 Code, § 6-108)

6-109. Mutual aid agreement with other local governments.¹ The City of Decherd Police Department may respond in emergency situations at the request of other local governments. The police department is not obligated to respond.

(1) The police department may respond to calls for assistance only upon the request for such assistance made by the senior officer in charge of the agency requesting such assistance.

(2) The authority to respond to such a request will be made by the chief of police, his designated assistant, or the officer in charge.

(3) The police department may provide whatever equipment and personnel as deemed appropriate up to a maximum of fifty percent (50%) of its personnel and resources.

(4) The police department's response will be determined by the severity of the emergency in the requesting department's jurisdiction as determined by the chief of police or officer in charge and the senior officer in charge requesting the assistance.

(5) The Decherd Police Department may return to its own jurisdiction at the discretion of the chief of police or the officer in charge for the City of Decherd.

¹Municipal code reference

Mutual aid agreements: title 20.

(6) Compensation for this mutual aid agreement will be made in an in-kind manner. (1993 Code, § 6-109)

TITLE 7**FIRE PROTECTION AND FIREWORKS**¹**CHAPTER**

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

CHAPTER 1**FIRE DISTRICT**²**SECTION**

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be all property located within the city's city limits. The fire department may respond when possible to fires outside the city's limits as to be designated by the city council. See chapter 4 in this title for policy and procedures for outside fire service and mutual aid agreements. (1993 Code, § 7-101)

¹Municipal code reference

Building, utility, and residential codes: title 12.
False alarms: title 20, chapter 2.

²The fire district is set out in § 7-204.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Exceptions, amendments, and deletions.
- 7-203. Enforcement.
- 7-204. Definition of "municipality."
- 7-205. Storage of explosives, flammable liquids, etc.
- 7-206. Gasoline trucks.
- 7-207. Variances.
- 7-208. Required access for fire apparatus.
- 7-209. Effective date.
- 7-210. Open burning.
- 7-211. Conditions for permitting.
- 7-212. Permit required.
- 7-213. Violations and penalty.

7-201. Fire code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the *International Fire Code*,² 2018 edition with amendments, is hereby adopted. Pursuant to the requirement of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire prevention code has been filed with the city codes office and is available for public use and inspection. Said fire prevention code is adopted and incorporated and shall be controlling within the corporate limits. (Ord. #399, _____, as replaced by Ord. #435, July 2021 **Ch2_04-09-24**)

7-202. Exceptions, amendments, and deletions. The following exceptions, amendments and deletions are hereby made to the *International Fire Code* adopted in § 7-201.

- (1) 903.2.8 The following exception is added to this section:

Exceptions: One and two family dwellings less than 2500 square feet.

- (2) 503.3.1 is added to state: It shall be unlawful for any person to stop, stand, or park a vehicle, or to allow a vehicle owned by him to stop, stand, or park, within any fire lane, on either public or private property. Persons who

¹Municipal code reference

Building, utility, and residential codes: title 12.

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

violate this section, shall be cited for and charged with a violation to the Decherd Municipal Court.

(3) Section 5001.1.1 shall be amended as follows:

The provisions of this chapter are waived when the fire code official determines that such enforcement is preempted by other codes or the Decherd Municipal Code Title 7 sections 7-204 through 7-208 or other ordinances passed into the Decherd Municipal Code. The details of any action granting such a waiver shall be recorded and entered in the files of the code enforcement agency.

(4) Required access for the fire apparatus. All premises which the fire department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. Fire lanes should be provided for all buildings which are set back more than one hundred fifty feet (150') from a public road or exceed thirty feet (30') in height and are set back over fifty feet (50') from a public road. Fire lanes shall be at least twenty feet (20') in width with the road edge closest to the building at least ten feet (10') from the building. Any dead-end road more than three hundred feet (300') long shall be provided with a turn-around at the closed end at least ninety feet (90') in diameter.

A written document, agreeable to the fire marshal and for the benefit of the jurisdiction, shall be required for emergency access over all fire lanes. The designation and maintenance of fire lanes on private property shall be accomplished as specified by the fire marshal. It shall be unlawful for any person to park motor vehicles on, or otherwise obstruct, any fire lane.

(5) Enforcement. The fire prevention code herein adopted by reference shall be enforced by the city's certified fire inspector or the fire chief. (Ord. #399, _____, as replaced by Ord. #435, July 2021 **Ch2_04-09-24**)

7-203. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the city's certified fire inspector. (Ord. #349, March 2010)

7-204. 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 Decherd, Tennessee. (Ord. #349, March 2010)

7-205. Storage of explosives, flammable liquids, etc. (1) The district referred to in chapter 33 of the fire prevention code, and chapter 65 of the *NFPA Uniform Fire Code*, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(2) The district referred to in chapter 34 of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(3) The district referred to in chapter 34 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the fire district as set out in § 7-101 of this code.

(4) The district referred to in chapter 38 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the fire district as set out in § 7-101 of this code. (Ord. #349, March 2010)

7-206. 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. (Ord. #349, March 2010)

7-207. 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. (Ord. #349, March 2010)

7-208. Required access for fire apparatus. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The 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. (Ord. #349, March 2010)

7-209. Effective date. After the effective date of these regulations, no person shall cause, suffer, allow, or permit open burning of any kind except as specifically permitted herein. (Ord. #379, April 2014)

7-210. Open burning. Open burning, as described in this section, may be conducted without permits, provided that no public nuisance is or will be created by such burning. Fires used for cooking food, fires for ceremonial or recreational purposes, including barbecues and outdoor fireplaces, and fires set for the training and instruction of firefighters, do not need a permit. This grant

of exemption shall in no way relieve the person from the consequences, damages, or claims resulting from such burning. This exception does not relieve the person of the responsibility of using fire safe practices nor from getting a permit from any other agency that may require such. (Ord. #379, April 2014)

7-211. Conditions for permitting. Open burning shall be allowed inside the corporate limits of the city when a valid permit has been obtained from the fire department. Prior to the burning, the person requesting the permit shall be certain that no detriment to the public health or damage to the land, water, or air will be caused. The following conditions shall always be met:

(1) Open burning shall be between the hours of 7:00 A.M. and 6:00 P.M., but in no case shall burning be permitted after dark unless specially permitted for special cases;

(2) All fires shall be completely extinguished by 6:00 P.M.;

(3) The fires may never be left unattended; and

(4) Materials to be burned must comply with the rules set forth by the Tennessee Department of Environment and Conservation, open burning rules chapter 1200-3-4. (Ord. #379, April 2014)

7-212. Permit required. To obtain a permit by this chapter, the applicant shall contact fire department. No fee shall be required to obtain an opening burning permit. The fire department shall have the authority to forbid, restrict, or suspend any and all burning when the fire chief or the senior fire officer in charge has determined that conditions are unfavorable or hazardous for outdoor fires. (Ord. #379, April 2014)

7-213. Violations and penalty. All premises which the fire department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. Fire lanes should be provided for all buildings which are set back more than one hundred fifty feet (150') from a public road or exceed thirty feet (30') in height and are set back over fifty feet (50') from a public road. Fire lanes shall be at least twenty feet (20') in width with the road edge closest to the building at least ten feet (10') from the building. Any dead-end road more than three hundred feet (300') long shall be provided with a turn-around at the closed end at least ninety feet (90') in diameter.

A written document, agreeable to the fire marshal and for the benefit of the jurisdiction, shall be required for emergency access over all fire lanes. The designation and maintenance of fire lanes on private property shall be accomplished as specified by the fire marshal. It shall be unlawful for any person to park motor vehicles on, or otherwise obstruct, any fire lane. (Ord. #349, March 2010)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Tenure and compensation of members.

7-306. Chief responsible for training and maintenance.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the city council. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the city council and such number of physically-fit subordinate officers and firemen (full-time and volunteer) as the city council shall appoint or designate. (1993 Code, § 7-301)

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

- (1) To prevent uncontrolled fires from starting;
- (2) To prevent the loss of life and property because of fires;
- (3) To confine fires to their places of origin;
- (4) To extinguish uncontrolled fires;
- (5) To prevent loss of life from asphyxiation or drowning; and
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1993 Code, § 7-302)

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

The appointed or hired chief of the fire department shall be paid fifty dollars (\$50.00) per month salary. (1993 Code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel,

¹Municipal code reference

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

and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1993 Code, § 7-304)

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the city council. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend any other member of the fire department until the next meeting of the city council when he deems such action to be necessary for the good of the department.

All personnel of the fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1993 Code, § 7-305)

7-306. Chief responsible for training and maintenance. The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1993 Code, § 7-306)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-401. Use of equipment and policy and procedures for outside city limits fire service.

7-401. Use of equipment and policy and procedures for outside city limits fire service.¹ The City of Decherd may provide personnel and equipment if available to residents in the area outlined in § 7-101. The fire department is not obligated to respond.

(1) The authority to respond to outside fire calls will be made by the fire chief, assistant fire chief, or the officer on duty.

(2) All firemen will report to the firehall designated by the fire chief for outside fire calls.

(3) One engine with five (5) or six (6) men if possible may respond to the fire. All other responding firemen will remain at the firehall designated by the fire chief until the responding equipment and personnel return from the outside fire call.

(4) All reporting firemen will be paid whether at the scene of the fire or on call at the fire hall.

(5) The remaining engine will report to the firehall designated by the fire chief.

(6) Compensation for this service will be rendered by the Franklin County Commission. Charges for this service will be negotiated by the city council and the Franklin County Commission on an annual basis. (1993 Code, § 7-401)

¹Municipal code reference
Mutual aid agreements: title 20.

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Definitions.
- 7-502. Permits and permit fees.
- 7-503. Separate sales and use tax numbers required.
- 7-504. Permit revocation.
- 7-505. Permissible fireworks.
- 7-506. Sale of fireworks.
- 7-507. Storing and structures.
- 7-508. Limitations on structures.
- 7-509. Location of fireworks outlets.
- 7-510. Parking for retail firework sales site.
- 7-511. Additional standards for fireworks retailers.
- 7-512. Children, unlawful sale and use of fireworks.
- 7-513. Limited time period to use fireworks.
- 7-514. Exclusions.
- 7-515. Violations and penalty.

7-501. Definitions. (1) As used in this chapter, unless the content otherwise requires:

(a) "D.O.T. 1.4G consumer fireworks." All articles of fireworks as are now or hereafter classified as 1.4G or formerly referred to as "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation.

(b) "Mobile retailer." A vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit." The written authority of the City of Decherd issued under the authority of this section.

(d) "Person." Any individual, firm, partnership, or corporation.

(e) "Retailer." Any person engaged in the business of making retail sales of fireworks to the general public.

(f) "Sale." An exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer thereof and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, copartnership, or one (1) or more individual(s).

(g) "State fire marshal permit." The appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of *Tennessee Code Annotated*, § 68-104-101, *et seq.*

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (Ord. #398, Aug. 2016)

7-502. Permits and permit fees. (1) It shall be unlawful for any person to sell, offer for sale, ship, or cause to be shipped into the City of Decherd any item of fireworks without first having secured a state fire marshal permit, and a permit issued by the City of Decherd.

(2) Permits are not transferable.

(3) A permit (to sell fireworks to the general public) shall be valid only from June 20 through July 9 or December 21 through January 5.

(4) The City of Decherd shall charge a permit fee in the amount of four hundred dollars (\$400.00) for an annual fee covering both summer and winter periods as set forth in this section for retail permits.

(5) The fee for public display events using special display (1.3G) fireworks shall be five dollars (\$5.00).

(6) The fee schedule may be revised from time to time by adoption of the annual budget ordinance and fee schedules.

(7) Community groups such as schools, weddings, business, and civic clubs who desire to have a group display of a 1.3G special display or 1.4G consumer fireworks may obtain a permit to use fireworks for any time of the year if a five dollar (\$5.00) permit is obtained from the City of Decherd.

(8) A permit to sell fireworks in the City of Decherd must be obtained at least one (1) week prior to the date on which the applicant desires to begin making sales. Each application shall contain the following:

(a) Name, address, and telephone number of applicant. The applicant must be the natural person who will operate or be responsible for sales. The applicant's name shall also be the same as the name on the state fire marshal permit. The applicant shall be liable for all violations of this chapter by persons under their supervision;

(b) A copy of the state fire marshal permit. (In order for a state permit to be obtained by a retailer, the city administrator or mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location);

(c) A person that applies for a retail fireworks permit must show proof that a state sales tax number and a city business license has been obtained for sales tax purposes;

(d) A site plan must be submitted that includes the dimensions of the lot, size, and location of structure, setback of structure from the right-of-way location of adjacent structures that are occupied, location and number of parking places, location of any nearby residences, location of adjacent fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure;

(e) Mobile vendors are not permitted;

(f) Flashing signs are not permitted;

(g) One double-faced sign is permitted, however, each sign face shall not exceed thirty-six (36) square feet;

(h) Evidence that general liability insurance has been obtained by applicant naming the City of Decherd as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined;

(i) The location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired;

(j) Applicant shall pay one hundred dollars (\$100.00) clean-up deposit per location, which shall be refunded after the fireworks season, or used by the city to clean up the retail fireworks site, if needed; and

(k) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance. (Ord. #398, Aug. 2016)

7-503. Separate sales and use tax numbers required. A separate sales and use tax number shall be required for each location where consumer fireworks are sold. (Ord. #398, Aug. 2016)

7-504. Permit revocation. The codes director and/or fire official shall be authorized to revoke any permit upon failure of retailer to correct any of the following conditions within thirty-six (36) hours after the codes director gives written notice:

(1) In the event that the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city codes director of the City of Decherd;

(2) In the event that the permittee's application contains any false or untrue statements;

(3) In the event the permittee fails to timely file and/or pay any report, tax, fee, fine, or charge;

(4) In the event the permittee or the permittee's operator violates any fireworks ordinance or statute; and/or

(5) In the event any activities of the permittee constitute a distinct hazard to life or property, said codes director and/or fire official may revoke the permit immediately. (Ord. #398, Aug. 2016)

7-505. Permissible fireworks. It is unlawful for any individual, firm, partnership, or corporation to possess, sell, or use within the City of Decherd or ship into the city, 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 by the U.S. Department of Transportation as 1.4G consumer 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.

Any display event using 1.3G display fireworks must be under the control of a licensed pyrotechnics technician. (Ord. #398, Aug. 2016)

7-506. Sale of fireworks. Permissible items or fireworks may be sold within the City of Decherd only from June 20 through July 5 and December 21 through January 5 of each year. (Ord. #398, Aug. 2016)

7-507. Storing and structures. No person shall smoke within a structure where fireworks are sold. No person selling fireworks shall permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words "Fireworks - No Smoking" in letters not less than four inches (4") high. An inspected and currently tagged 10# ABC rated portable fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail shall only be sold from a freestanding structure. Fireworks are not permitted to be stored in residential districts, except for personal use. (Ord. #398, Aug. 2016)

7-508. Limitations on structures. Tents meeting the current adopted *International Building Code* and *International Fire Code* may be used for the retail sale of fireworks. No structure from which fireworks are sold shall exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block. (Ord. #398, Aug. 2016)

7-509. Location of fireworks outlets. Fireworks sales structures shall be no closer than sixty feet (60') from any occupied building. Fireworks sales are only permissible on commercial/industrial property as approved by the planning department and the sales structure must be located a minimum of forty-five feet (45') from the right-of-way. Any fireworks sales structure must be at least one hundred fifty feet (150') from a residence. Fireworks sales are not allowed on any property where there is an existing retail business that is operated from a building in excess of one hundred twenty-five thousand (125,000) square feet. (Ord. #398, Aug. 2016)

7-510. Parking for retail firework sales site. The site for a fireworks retailer shall be improved to provide at least adequate parking places for off street and right-of-way customer parking. (Ord. #398, Aug. 2016)

7-511. Additional standards for fireworks retailers. (1) Any site for a fireworks retailer must be located so that all parts of the structure and

fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred and fifty feet (750') from other similar uses. This distance shall be measured from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location. (Ord. #398, Aug. 2016)

7-512. Children, unlawful sale and use of fireworks. It shall be unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated or seemingly irresponsible person. It shall be unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such motor vehicle, or at or near any person or group of persons. A user of fireworks shall not ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. Fireworks shall not be launched or fired onto property of persons who have not given permission. Fireworks shall not be used at times, places, or in any manner, which adversely affect other persons. Fireworks shall not be used during a burning ban declared by either the State of Tennessee or the Decherd Fire Department, except for public (and/or group) displays for which permits have been granted. (Ord. #398, Aug. 2016)

7-513. Limited time period to use fireworks. It shall be unlawful to discharge or use fireworks except for the following time periods:

(1) June 20 through July 5: the permissible hours shall be from 10:00 A.M. to 11:30 P.M., except for July 3 and 4 when permissible hours shall be from 10:00 A.M. to 12:30 A.M.; and

(2) December 20 and January 2: the permissible hours shall only be from 10:00 A.M. to 11:30 P.M. except for December 31 when permissible hours are up to 1:00 A.M. January 1. (Ord. #398, Aug. 2016, modified)

7-514. Exclusions. Nothing in this chapter shall be construed to prohibit:

(1) The sale of any kind of fireworks which are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water;

(2) The use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

- (3) The sale of use of blank cartridges for theater or sporting events;
- (4) The use of fireworks for military operations of agencies of the state or federal government;
- (5) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee; and
- (6) Supervised displays of fireworks or hereinafter provided. (Ord. #398, Aug. 2016)

7-515. Violations and penalty. All individuals who violate any provision of this chapter shall be guilty of an offense and, upon conviction, shall be punished by a fine not to exceed fifty dollars (\$50.00) plus costs. Each violation or transaction shall be considered a separate violation. (Ord. #398, Aug. 2016)

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

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

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

- 8-101. Business unlawful except as regulated.
- 8-102. Definitions.
- 8-103. Manufacturing prohibited.
- 8-104. Wholesaling prohibited.
- 8-105. State laws to be complied with.
- 8-106. Restrictions as to location.
- 8-107. License required for retail business.
- 8-108. Bonds required.
- 8-109. Restrictions on license holders and employees.
- 8-110. Employee's permit.
- 8-111. License to be displayed.
- 8-112. Transfer of licenses prohibited; term of license; use of agents.
- 8-113. New license after revocation.
- 8-114. Federal license as evidence of sales.
- 8-115. Inspection fees.
- 8-116. Regulations for purchase and sale of intoxicating liquors.
- 8-117. Solicitation of business restricted.
- 8-118. Regulation of retail sales.
- 8-119. Actions to recover unpaid license and inspection fees.

8-101. Business unlawful except as regulated. It shall be unlawful to engage in the business of buying, selling, storing, transporting, or distributing alcoholic beverages within the corporate limits of the City of Decherd except as provided by *Tennessee Code Annotated*, title 57 inclusive, as amended, or as

¹State law reference

Tennessee Code Annotated, title 57.

hereafter amended, and by rules and regulations promulgated thereunder, and as provided by ordinances of this municipality. (1993 Code, § 8-101)

8-102. Definitions. Terms defined whenever used herein unless the context requires.

(1) "Alcoholic beverage" or "beverage." Includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, or wine and capable of being consumed by a human being, other than patented medicine, beer, or wine, pursuant to *Tennessee Code Annotated*, § 57-5-101.

(2) "Commission." The Tennessee Alcoholic Beverage Commission, except as otherwise provided.

(3) "Distiller." Any person who owns, occupies, carries on, works, conducts, or operates any distillery either by himself or by his agent.

(4) "Distillery." Includes any place or premises wherein any liquors are manufactured for sale.

(5) "Federal license." As used in this chapter, shall not mean tax receipt of permit.

(6) "Gallon" or "gallons." Wherever used in this chapter, shall be construed to mean a wine gallon or wine gallons of one hundred and twenty-eight (128) ounces. The word "quart" whenever used in this chapter will be construed to mean one fourth (1/4) of a wine gallon. The word "pint" wherever used in this chapter, shall be construed to mean one eighth (1/8) of a wine gallon.

(7) "License." The license issued pursuant to this chapter; and "licensee" means any person to whom such license has been issued pursuant to this chapter.

(8) "Manufacturer." Includes a distiller, vintner, and rectifier. Manufacture means and includes distilling, rectifying, and operating a winery.

(9) "Municipality." An incorporated town or city having a population of one thousand (1,000) persons or over by the federal census of 1950 or any subsequent federal census.

Provided, however, that when any incorporated town or city by ordinance authorizes a census to be taken of such incorporated town or city and shall furnish to the commission a certified copy of said census containing the names, address, age, and sex of each person enumerated therein, and if said census shall show that said incorporated town or city has a population of one thousand (1,000) persons or over, the commission, upon verification of said census, may declare such incorporated town or city to be a "municipality" for all intents and purposes of this chapter.

(10) "Rectifier." Includes any person who rectifies, purifies, or refines distilled spirits or wines by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any imitation of, or compounds liquors for sale under the

name of, whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(11) "Retailer." Any person who sells at retail any beverage for the sale of which a license is required under the provisions of this chapter.

(12) "Retail sale" or "sale at retail." A sale to a consumer or to any person for any purpose other than for resale.

(13) "Vintner." Any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent.

(14) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(15) "Wholesale sale" or "sale at wholesale." A sale to any person for purposes of resale.

(16) "Wine." The product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling, and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine.

(17) "Winery." Includes any place or premises wherein wines are manufactured from any fruit or brandies distilled as the by-product of wine or other fruit or cordials compounded, and also includes a winery for the manufacture of wine.

Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural. (1993 Code, § 8-102)

8-103. Manufacturing prohibited. The manufacture of alcoholic beverage is prohibited within the corporate limits of the city. (1993 Code, § 8-103)

8-104. Wholesaling prohibited. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits of the city. (1993 Code, § 8-104)

8-105. State laws to be complied with. No person, firm, corporation, associations, or partnership shall engage in the retail liquor business unless all the necessary state licenses and permits have been obtained. (1993 Code, § 8-105)

8-106. Restrictions as to location. No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the council, expressed by a majority thereof, the carrying on of such business at the premises covered by the application for a license would be in too close

proximity of a church, school, or public institution, or otherwise inimical to the public interest. A business license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the city council, unless the new location is approved in writing by the city council. (1993 Code, § 8-106)

8-107. License required for retail business. For the retail sale of alcoholic beverages, a license may be issued as in this chapter provided. Any person, persons, firm, or corporation desiring to sell alcoholic beverages to patrons or customers in sealed packages only, and not for consumption on the premises, shall make application for a certificate of good moral character by submitting in duplicate to the city recorder of the City of Decherd, copies of the appropriate application forms used by the Tennessee Alcoholic Beverage Commission, along with a copy of any supplemental or additional forms required by said commission, and shall request, in writing, that said certificate of good moral character be signed by the mayor or a majority of the city council if such signing of said certificate be determined by the provisions of the Charter of the City of Decherd relating to voting by the city council, certifying that the named applicant or applicants are of good moral character, and if the applicant for said certificate be a corporation, that the executive officers, all directors, all stockholders, and those in control are of good moral character. Said certificate shall be subject to the issuance of a retail license by the Tennessee Alcoholic Beverage Commission, and further subject of the issuance of such retailer's license by the City of Decherd. Said City of Decherd retailer's license shall not be issued unless and until the applicant or applicants therefor shall have paid to said city the minimum tax of fifteen dollars (\$15.00) due to be paid to said city by said applicant or applicants pursuant to the Tennessee Business Tax Act (*Tennessee Code Annotated*, §§ 67-4-702 to 67-4-726) and shall thereafter comply with all other provisions of said Business Tax Act applicable to said applicant or applicants; and no such City of Decherd license for the sale of alcoholic beverages shall issue except to a person or persons who, to a firm the partners in which, or to a corporation the stockholder or stockholders or which, have been for at least two years a resident citizen or citizens of Franklin County, Tennessee. (1993 Code, § 8-107)

8-108. Bonds required. Bonds required herein shall be executed by a surety company duly authorized to do business in the State of Tennessee. Each retailer shall execute such bond upon granting of a license, in the amount of one thousand dollars (\$1,000.00), conditioned that the principal thereof shall pay any fine which may be assessed against such principal and/or taxes or inspection fees due from him to the City of Decherd, Tennessee. Each applicant for a certificate of good moral character shall, in the event of issuance of the same, furnish to the City of Decherd a corporate performance bond in the principal

amount of one thousand dollars (\$1,000.00), conditioned upon the use of said certificate within a one hundred twenty (120) day period of time after the issuance of said certificate of good moral character, and in the event said certificate of good moral character shall not have been used by the issuance of an appropriate license within said one hundred twenty (120) days period of time after issuance of said certificate of good moral character, the same shall be forfeited to the City of Decherd. (1993 Code, § 8-108)

8-109. Restrictions on license holders and employees. (1) The minimum tax and the total tax due to be paid to the city by the applicant or applicants for a license pursuant to the provisions of this chapter under the provisions of the Tennessee Business Tax Act (*Tennessee Code Annotated* §§ 67-4-702 to 67-4-726), shall be paid by the person, persons, firm, or corporation making application for such license and to whom it is issued, and no other person shall pay such taxes. In addition to all other penalties, a violation of this section shall authorize the revocation of such license, where such taxes are paid by another or others, and also the revocation of the license, if any, of the person, persons, firm, or corporation so paying such taxes.

(2) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county, nor to the father, mother, son, daughter, brother, sister, or the spouse of such public employee, or the spouses of such father, mother, son, daughter, brother, or sister. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien or to participate in the profits of any such business.

(3) No retailer shall be a person who has been convicted of a felony involving moral turpitude with ten (10) years prior to the time he or the firm or corporation with which he is connected shall receive a license: provided, however, that this provision shall not apply to any person who has been convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction, and in case of any such conviction occurring after a license has been issued and received, said license shall immediately be revoked, if such convicted felon be an individual licensee and if not, the firm or corporation with which he is connected shall immediately discharge him.

(4) No license shall, under any circumstance, be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state of the United States prohibiting or regulating the sale, possession, transporting, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others in violation of any of said laws or rules and regulations promulgated pursuant thereto, or as they may exist thereafter.

(5) No manufacturer, brewer, or wholesaler shall have any interest in the business or building containing licensed premises of any other person, firm, or corporation having a license issued pursuant to the provisions of this chapter, or in the fixtures of any such person, firm, or corporation.

(6) It shall be unlawful for any person to have ownership in or participate, directly or indirectly, in the profits or any licensed retail business, unless his interest in said business and the nature, extent, and character thereof shall appear on the application, or if the interest is acquired after the issuance of a license unless it shall be fully disclosed to the city. Where such interest is owned by such person, on or before the application for any license to see that this section is fully complied with, whether he, himself signs or prepares the application, or whether the same is prepared by another, or, if said, interest is acquired after the issuance of said license, the burden of disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(7) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages, shall be a person under the age of nineteen (19) years of age for the physical storage, sale, or distribution of alcoholic beverages or to permit any such person under said age on its place of business to engage in the storage, sale, or distribution of alcoholic beverages.

(8) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted, he shall immediately be discharged: provided, however, that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgement of infamy has been removed by a court of competent jurisdiction.

(9) No retailer shall employ any person who is a city employee, either elective or appointive, and who receives any monetary compensation for his services from the city.

(10) The issuance of a license pursuant to the provisions of this chapter does not vest a property right in the licensee or licensees, but is a privilege subject to revocation or suspension under the provisions of this chapter.

(11) Misrepresentation of a material fact or concealment of a material fact required to be shown in the application for a license shall be violation of this chapter.

(12) No person, persons, firm, or corporation shall be qualified for an alcoholic beverage license or have an interest in a retail store who is delinquent in any taxes, whether it be real, personal, privilege, or any other kind of taxes due to the City of Decherd. (1993 Code, § 8-109)

8-110. Employee's permit. (1) Every retail licensee or licensees shall, before employing a person to dispense alcoholic beverages, secure from the city recorder an employee's temporary permit, authorizing such a person to serve as an employee in the place of business of the retailer. Such temporary permit shall

be submitted to the city council at the next regular meeting for rejection or approval. It is made the duty of the retailer to see that each person dispensing alcoholic beverages has an employee's permit as above required, which permit must be on the person of such employee or upon the premises of the licensee at all times, subject to inspection by the authorized agent of the city. The applicant for such employee's permit shall pay to the city the sum of one dollar (\$1.00) therefor.

(2) Duration of employee's permit. Employee's permits issued under the provisions of this section shall be issued at any time and shall expire twelve (12) months from date of issuance, and shall be subject to revocation or suspension by the city council for any violation of this section or any rule or regulation promulgated pursuant thereto. Application for renewal shall be made in the same manner as application for permit and upon the forms to be prescribed by the city recorder. Such permit shall not be transferrable and must be surrendered, to the city recorder, within seven (7) days from the date the holder thereof ceases to work for the employer, and it shall be the duty of the employer to notify the city recorder within seven (7) days of the termination of employment for which such permit was issued. (1993 Code, § 8-110)

8-111. License to be displayed. Any person, persons, firm, or corporation granted a license pursuant to the provisions of this chapter shall, before being qualified to do business, display and post, and keep displayed and posted, such license in the most conspicuous place on the premises covered by such license. (1993 Code, § 8-111)

8-112. Transfer of licenses prohibited; term of license; use of agents. The holder of a license may not sell, assign, or transfer such license to any other person nor to any other location, and said license shall be good and valid only for the calendar year in which the same was issued and at the location for which it was issued; provided, however, that the licensee or licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of such licensee or licensees, during the absence of such licensee or licensees. In such instances, the license shall continue to be carried and renewed in the name of the owner or owners. The agent of the licensee or licensees shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee or licensees under this section.

All licenses issued under this chapter shall expire at the end of the calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by payment of the above mentioned minimum tax and total tax due to be paid to the city by the licensee or licensees under the provisions of the Tennessee Business Tax Act (*Tennessee Code Annotated*, §§ 67-4-702 to 67-4-726). (1993 Code, § 8-112)

8-113. New license after revocation. (1) Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective.

(2) If the premises are owned by a person, firm, or corporation not the licensee, the commission may, in its discretion, waive the provision of subsection (1) or reduce the time within which no new license may be granted with respect to the same premises. (1993 Code, § 8-113)

8-114. Federal license as evidence of sales. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (1993 Code, § 8-114)

8-115. Inspection fees. The City of Decherd does hereby impose an inspection fee upon all licensed retailers of alcoholic beverages as deemed by *Tennessee Code Annotated*, § 57-3-501 located within said city of eight percent (8%) on wholesale price as supplied to said retailer by the wholesaler, as defined by said section of *Tennessee Code Annotated*, and said inspection fee shall be collected as follows.

(1) The inspection fee shall be collected by the wholesaler from the retailer following notice given the wholesaler by the city that an inspection fee has been imposed by ordinance upon the retailers located within the particular city. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(2) Each wholesaler making sales to retailers located within the city imposing an inspection fee shall furnish the city a report monthly, which report shall contain a list of the alcoholic beverages sold to each retailer located within the city, the wholesale price of the alcoholic beverages sold to each retailer, the amount of tax due, and such other information as may be required by the city. The monthly report shall be furnished the city not later than the twentieth of the month following which the sales were made. The inspection fees collected by the wholesaler from the retailer or retailers shall be paid to the city at the time the monthly report is made. Wholesalers collecting and remitting the above inspection fee shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report.

(a) Failure to collect or timely report and/or pay the inspection fee collected shall result in a penalty of ten percent (10%) of the fee due, which shall be payable to the City of Decherd.

(b) The City of Decherd shall have the authority to audit the records of wholesalers reporting to them in order to determine the accuracy of said reports. (1993 Code, § 8-115)

8-116. Regulations for purchase and sale of intoxicating liquors.

(1) It shall be unlawful for any person in this state to buy any alcoholic beverages herein defined from any person who, to the knowledge of the buyer, does not hold the appropriate license under the laws of this state authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer, or a licensed wholesaler, provided that such alcoholic beverages sold by one (1) wholesaler to another wholesaler shall be transported by common carrier or by vehicle owned or leased and operated by either the consignor wholesaler or the consignee wholesaler.

(3) No manufacturer or distiller shall sell any alcoholic beverages to any person in this state except a licensed wholesaler and to another manufacturer or distiller, and no manufacturer shall hold a wholesaler's license.

(4) No alcoholic beverage for sale to the retailer, or his representative, shall be sold except by a licensed wholesaler, who sells for resale on his premises and who carries on no other business, directly or indirectly, and whose said wholesale business in alcoholic beverages is not operated as an adjunct to, or supplementary to, the business of any other person, either by way of lease of said wholesale premises or otherwise, for any business other than that permitted by the terms of his wholesale license.

(5) No licensee shall sell intoxicating liquors at retail in connection with any wholesale business, or as a part of or in connection with any other business or in the same store where any other business is carried on.

(6) No wholesale or retail store shall be located except on the ground floor, and it shall have one (1) main entrance opening on a public street and such place of business shall have no other entrance for use by the public except as hereafter provided. When a wholesale or retail store is located on the corner of two (2) public streets, such wholesale or retail store may maintain a door opening on each of the public streets; provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public and, provided, further, that every wholesale and retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances. Provided further, when the location of a wholesale or retail liquor store is authorized to be located or operated within an established shopping center or shopping mall, and said liquor store cannot and does not have a main entrance or door opening onto a public street, but said main entrance or door would open or front on a shopping center parking area, the commission in their discretion may approve the issuance of a liquor license to cover said location

within the shopping center or shopping mall, irrespective of the fact that said main entrance or door does not or would not open onto a public street.

(7) No holder of a license for the sale of alcoholic beverages for wholesale or retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit, except that holders of wholesale licenses may sell on not more than ten (10) days' credit.

(8) No alcoholic beverages shall be sold for consumption on the premises of the seller except as provided in *Tennessee Code Annotated*, §§ 57-4-101 to 57-4-203.

(9) To the fullest extent, consistent with the nature of the establishment, full, free, and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.

(10) The sale of and delivery of alcoholic beverages shall be confined to the premises of the licensee, and curbside service is not permitted.

(11) No form of entertainment, including pinball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold, and no seating facilities shall be allowed in public area, except that nothing herein shall be construed to prohibit the use of intercom music consistent with commercial business. (1993 Code, § 8-116)

8-117. Solicitation of business restricted. (1) It shall be unlawful for any representative, employee, or agent of any distiller, rectifier, or manufacturer to solicit business from anyone in this state except those holding a wholesaler's license to do business in this state.

(2) (a) No holder of a license issued under this chapter shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business for such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer.

(b) This subsection shall not be construed so as to prohibit the solicitation by a distiller, rectifier, or vintner of an order from any licensed wholesaler at the licensed premises of such wholesaler, nor to prohibit the solicitation by a licensed wholesaler of an order from any licensed retailer at the licensed premises. (1993 Code, § 8-117)

8-118. Regulation of retail sales. (1) No retailer shall, directly or indirectly, operate more than one (1) place of business, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(2) No retailer shall offer or make any discount in the sale or delivery of liquors in case quantities. No reduction in the standard price per case shall be made for sales in excess of one (1) case.

(3) No retailer shall sell any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell to any person accompanied by a person who is drunk.

(4) No retailer shall sell any alcoholic beverages to a person known to be a minor.

(5) No retailer shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock A.M. (8:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Monday through Saturday and between ten o'clock A.M. (10:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Sunday. Likewise, all retail liquor stores shall be closed for business on Thanksgiving Day, Christmas, Labor Day, New Year's Day, and the Fourth of July.

(6) No retailer of alcoholic beverages shall keep, or permit to be kept, upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(7) No retailer as herein defined shall own, store, or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of said state.

(8) This chapter is governed by *Tennessee Code Annotated*, title 57 chapter 3, chapter 4, and chapter 5 relative to alcoholic beverages. All other sections of the Decherd Municipal Code is governed by these sections of *Tennessee Code Annotated* the Rules of the Tennessee Alcoholic Beverage Commission. (1993 Code, § 8-118, as amended by Ord. #412, Oct. 2018 *Ch1_6-19-19*)

8-119. Actions to recover unpaid license and inspection fees.

Whenever any person, persons, firm, or corporation licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the city recorder shall report the same to the city attorney and he shall immediately institute the necessary action for the recovery of any such license or inspection fee. (1993 Code, § 8-119)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Beer permits shall be restrictive.
- 8-209. Interference with public health, safety, and morals prohibited.
- 8-210. Issuance of permits to persons convicted of certain offenses prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Revocation of beer permits.
- 8-213. Privilege tax.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Special event/temporary beer permits.

8-201. Beer board established. The city council is hereby designated as the city beer board. (1993 Code, § 8-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall be deemed to be in session at any time the city council is in session. When there is business to come before the beer board, a special meeting may be called by the mayor, provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1993 Code, § 8-202)

8-203. Record of beer board proceedings to be kept. The recorder shall keep a record of the proceedings of all meetings of the beer board along with the minutes of the city council. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and

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).

seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1993 Code, § 8-203)

8-204. Requirements for beer board quorum and action. The requirements for a beer board quorum and action shall be the same as for the city council. (1993 Code, § 8-204)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the City of Decherd in accordance with the provisions of the state law of this chapter. (1993 Code, § 8-205)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-101(b), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Decherd. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. (1993 Code, § 8-207)

8-208. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. Permits are to be renewed annually on a calendar basis. (1993 Code, § 8-208)

8-209. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with churches or other places of public gathering as determined by the Decherd Beer Board, and would otherwise interfere with the public health, safety, and morals, except at

public eating places. In no event will a permit be issued authorizing the sale of beer for on-premises consumption at places within three hundred fifty feet (350') of any church or other place of public gathering as determined by the Decherd Beer Board. The Decherd Beer Board will have total discretion of all beer sales and locations within the Decherd city limits. (1993 Code, § 8-209)

8-210. Issuance of permits to persons convicted of certain offenses prohibited. No beer permit shall be issued to any person who has been convicted for involvement with the illegal possession, sale, or transportation of intoxicating liquor, marijuana, drugs, or any other offense that a person was sentenced to serve five (5) months twenty-nine (29) days or more in a county jail or other detention place, within the past ten (10) years. (1993 Code, § 8-210)

8-211. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Employ any person convicted under the provisions of § 8-210 as noted above;
- (2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer;
- (3) No licensee shall permit beer to be consumed or sold on the licensed premise between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday.
- (4) Allow any loud, unusual, or obnoxious noises to emanate from his premises;
- (5) Make or allow any sale of beer to a minor under twenty-one (21) years of age;
- (6) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business;
- (7) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person;
- (8) Allow drunk or disreputable persons to loiter about his premises;
- (9) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content as defined in *Tennessee Code Annotated*, § 57-5-101.;
- (10) Allow dancing on his premises when the management/owner/operator has been officially warned on three (3) separate occasions of: not maintaining order (disorderly to the extent of being unsafe for customers); or not maintaining and enforcing safety standards in accordance with the fire prevention code and the life safety code; and/or
- (11) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1993 Code, 8-211, as amended by Ord. #410, Aug. 2018 *Ch1_6-19-19*)

8-212. Revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board. (1993 Code, § 8-212)

8-213. Privilege tax. There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate, or association engaged in the sale, distribution, storage, or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of Decherd, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1993 Code, § 8-213)

8-214. Civil penalty in lieu of suspension. The beer board will at the time impose a civil penalty for:

(1) First offense: impose a civil penalty of up to two thousand five hundred dollars (\$2,500.00) for sales to minors and up to one thousand dollars (\$1,000.00) for any other offense:

(2) Second offense: permit suspended for ninety (90) days: and

(3) Third offense: permit revoked permanently.

If the first/second offense involves serious injury or resulting in death, the beer permit will be revoked permanently.

Note: the chief of police will give a copy of this section to each permit holder acknowledging these changes and will get the permit holder to sign an affidavit provided by the city acknowledging these penalties. (Ord. #362, Jan. 2012, modified)

8-215. Special event/temporary beer permits. A permit to sell beer may be obtained from the beer board for special events not to exceed three (3) days in duration. An applicant for such a special event permit must meet all other requirements for a beer permit except such an event may be permitted without being located within a permanent structure. A special event nonrefundable permit fee in the amount of one hundred dollars (\$100.00) shall be paid upon application for such permit. A special event permit holder shall not be required to pay the privilege tax set out in § 8-213. Special event permit applications must:

(1) No more than two (2) permits will be issued for a single festival, celebration, or event.

(2) Permit applications must be submitted thirty (30) days prior to the start of the event for which a permit is requested.

(3) The following information must be submitted with an application for a special event permit.

(a) The party applying for the special event permit, contact person, address and phone number.

(b) Date(s) and time(s) of event.

(c) The sponsors of the event and the sponsor contact's address and phone number.

(d) The specific location where beer is to be sold and served.

(e) The individual(s) with such organization responsible for supervising the sale and dispensing of the beer.

(f) Plans for security and policing the area(s) where beer is to be sold.

(g) If the events covered by the "special event permit" will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the special event application.

(h) Failure of the special event permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Decherd will result in a denial of a special event beer permit for the sale of beer for a period of two (2) years.

(4) Permit applications are valid only for on-premises consumption inside an enclosed and/or fenced area with restricted ingress/egress points, subject to inspection and approval.

(5) If approved, the special event/temporary permit shall have affixed on its face the name of the proposed vendor(s) of beer, the specific location(s) and date(s) where such vendor is permitted to sell beer under the special event permit and the permit must be posted in plain view at site. (as added by Ord. #415, Jan. 2019 *Ch1_6-19-19*)

CHAPTER 3

ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES

SECTION

8-301. Privilege tax levied.

8-302. Recorder's responsibility.

8-301. Privilege tax levied. Pursuant to the authority of *Tennessee Code Annotated*, § 57-4-301, there is levied on every person who engages in the business of selling at retail in the City of Decherd alcoholic beverages for consumption on the premises, an annual privilege tax as follows:

- (1) Private club \$300
- (2) Hotel and motel 1,000
- (3) Convention center 500
- (4) Premier type tourist resort 1,500
- (5) Restaurant, according to seating capacity, on licensed premises
 - (a) 75-125 seats 600
 - (b) 126-175 seats 750
 - (c) 176-225 seats 800
 - (d) 226-275 seats 900

If a restaurant is licensed by the ABC to sell wine only under *Tennessee Code Annotated*, § 57-4-101(n), the privilege tax imposed shall be one-fifth (1/5) the amount specified in subsection (5) above.

- (6) Historic performing arts center 300
- (7) Urban park center 500
- (8) Commercial passenger boat company 750
- (9) Historic mansion house site 300
- (10) Historic interpretive center 300
- (11) Community theater 300
- (12) Zoological institution 300
- (13) Museum 300
- (14) Establishment in a terminal building of a
commercial air carrier airport 1,000
- (15) Commercial airline travel club 500
- (16) Public aquarium 300

(1993 Code, § 8-301)

8-302. Recorder's responsibility. It shall be the responsibility of the recorder to ensure that the city receives its share of the fifteen percent (15%) tax levied on the gross sales of on alcoholic beverages sold at retail for consumption on-premises and collected by the commissioner of the Alcoholic Beverage Commission under *Tennessee Code Annotated*, § 57-4-301(c), and distributed to

the state and its political subdivisions under *Tennessee Code Annotated*,
§ 57-4-306. (1993 Code, § 8-302)

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

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CABLE TELEVISION.
4. CABLE TELEVISION FRANCHISE ORDINANCE.

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

- 9-101. "Going out of business" sales.
- 9-102. Revocation or refusal of taxicab licenses for liquor law violators.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days, he shall prima facie be deemed to have violated this section. (1993 Code, § 9-101)

9-102. Revocation or refusal of taxicab licenses for liquor law violators. Any driver or owner of a taxicab operating in Decherd, Tennessee, upon conviction for selling or transporting whiskey, shall have his license to operate a taxicab in Decherd revoked. Furthermore, no license to operate a taxicab in Decherd, Tennessee, shall be issued to an applicant who has been convicted of transporting or selling whiskey within five (5) years from the date of his application. (1993 Code, § 9-102)

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

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. Loud noises and speaking devices.
- 9-207. Use of streets.
- 9-208. Exhibition of permit.
- 9-209. Authorized city officials to enforce.
- 9-210. Penalties.
- 9-211. Reapplication.
- 9-212. Expiration and renewal of permit.
- 9-213. Casual sale of goods by residents of the city.

9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor 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. (1993 Code, § 9-201)

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. (1993 Code, § 9-202)

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 reference
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 inches (2") square showing the head and shoulders of the applicant;
- (7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly 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, 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; and
- (10) At the time of filing the application, a fee of twenty five dollars (\$25.00) for a one (1) time special event (downtown craft show, car shows, etc.), fifty dollars (\$50.00) seasonal vendor (local produce, merchandise sales) per year, two hundred fifty dollars (\$250.00) for a food truck (including ice cream trucks) per year shall be paid to the city to cover the cost of investigating the facts stated therein. (1993 Code, § 9-203, modified, as amended by Ord. #428, Jan. 2021 *Ch2_04-09-24*)

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. (1993 Code, § 9-204)

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 city council. 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. (1993 Code, § 9-205)

9-206. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the city or upon private premises 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. (1993 Code, § 9-207)

9-207. 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.

Furthermore, no person shall sell or offer for sale any merchandise, food, or any other article from any motor truck, automobile, horse-drawn vehicle, or any other vehicle on Depot Street or within one block thereof within the City of Decherd. (1993 Code, § 9-208)

9-208. Exhibition of permit. Permittees are required to exhibit their permits at the request of any authorized city official. (1993 Code, § 9-209, as replaced by Ord. #429, Jan. 2021 *Ch2_04-09-24*)

9-208. Authorized city officials to enforce. It shall be the duty of all police officers, city codes officials, city administrator to see that the provisions of this chapter are enforced. (1993 Code, § 9-210, as replaced by Ord. #429, Jan. 2021 *Ch2_04-09-24*)

9-210. Penalties. The city may issue a citation with a fine of fifty dollars (\$50.00) plus costs and the vendor must acquire a permit. (1993 Code, § 9-211, as replaced by Ord. #429, Jan. 2021 *Ch2_04-09-24*)

9-211. 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. (1993 Code, § 9-212)

9-212. 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. (1993 Code, § 9-213)

9-213. Casual sale of goods by residents of the city. The sales and markets noted here are the yard sales and garage sales:

(1) Citizens are required to secure a permit for these sales on their property or property that their items are displayed anytime of the year from the City of Decherd Codes Department. The person or persons will be given a copy of the permit to be posted during the sale.

(a) No person shall have more than two (2) permitted yard sales per address per year.

(b) The City of Decherd will provide two (2) dates for permit free citywide sales.

(c) This permit will be a fee of ten dollars (\$10.00) per sale and will be good for up to three (3) consecutive days in duration. A new permit will have to be obtained for each sale.

(d) Non-residents are allowed to hold yard sales only during city wide yard sale dates.

(e) Non-resident city wide yard sale participants will be required to obtain a permit at a fee of twenty dollars (\$20.00) for three (3) consecutive days. A new permit will be required for each city-wide yard sale.

(f) The permit will allow signs that are no larger than five hundred seventy-six (576) square inches which equals two by two feet (2 x 2') and cannot be placed or fastened to utility poles or any type of public signs.

(g) The permittee must list on the permit where the signs will be placed and all signs must meet the requirements of the City of Decherd Municipal Code, title 14 chapter 11. All signs must be picked up the day after the sale.

(2) Churches and civic groups are exempt from the permit, if their sales are held on private church property for the benefit of the church; however, church sales are prohibited on residential property without a permit. Civic

groups having yard sales must benefit the civic group. All other provisions of this section applies.

(3) If misleading information is given to acquire a permit for sales, your permit will be revoked and refused under this section for one (1) year and you could be summoned to city court.

(4) Casual sales may not be conducted by the sellers for more than three (3) consecutive days at any one (1) time.

(5) All yard sale signs posted in the City of Decherd must be held in the city limits of Decherd.

(6) Said goods sold shall not have been purchased by said sellers for the purpose of resale. Should one (1) or more of the foregoing conditions not exist, said sales activities shall be considered as a business and be subject to other requirements. There shall be no inside yard sales with the exception of estate sales. (Ord. #406, Feb. 2018)

CHAPTER 3

CABLE TELEVISION

SECTION

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television service shall be furnished to the City of Decherd and its inhabitants under franchise granted by the city council of the City of Decherd, Tennessee. The rights, powers, duties, and obligations of the City of Decherd and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon, the parties concerned.¹ (1993 Code, § 9-501)

¹For complete details relating to the cable television franchise agreement see the cable television franchise ordinance in the office of the city recorder.

CHAPTER 4

CABLE TELEVISION FRANCHISE ORDINANCE

SECTION

- 9-401. Purpose.
- 9-402. Definitions.
- 9-403. Acceptance: effective date.
- 9-404. Term of franchise.
- 9-405. Revocation of franchise and other penalties.
- 9-406. Transfer of cable television system.
- 9-407. Authority granted by the franchise.
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9-401. Purpose. The City of Decherd finds that the continued development of cable communication has the potential of having great benefit and impact upon the citizens of city, because of the complex and rapidly changing technology associated with cable communications, the city further finds that the public convenience, safety, and general welfare can best be served by establishing and maintaining regulatory powers which should be vested in the city or such city officials as the city shall designate. It is the intent of this chapter and subsequent amendments to provide for and specify the means to attain the best possible public interest and public purpose in these matters.

Further, it is recognized that cable communications systems have the capacity to provide not only entertainment and information services to the county's residents, but can provide additional services.

For these purposes, the following goals underlie the provisions contained herein.

(1) Where economically reasonable, cable television services should be made available to all city residents.

(2) The system should be capable of accommodating both the present and reasonably foreseeable future cable television needs of the citizens of the city. (1993 Code, § 9-601)

9-402. Definitions. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the following meanings when used in this chapter:

(1) "Cable Act." The Cable Communications Policy Act of 1984, as amended, 47 U.S.C. § 521 *et seq.*

(2) "Cable television service." The provision of television reception, communications and/or entertainment services for direct or indirect compensation, or as otherwise provided by this chapter, and distributing the same over a cable television system.

(3) "Cable television system." A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service to multiple subscribers within a community, not including a facility or combination of facilities that serves only to retransmit the television signals of one or more television broadcast stations; or a facility or combination of facilities that serves only subscribers in one (1) or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way or public utility easement.

(4) "Channel." A portion of the electro-magnetic frequency spectrum (or any other means of transmission, including, but not limited to optical fibers) which is capable of carrying the equivalent of one (1) six (6) megahertz television broadcast signal and includes uses of all or any portion of such band of frequencies.

(5) "City." The City of Decherd.

(6) "City council." The City Council of the City of Decherd, State of Tennessee.

(7) "Commercial subscriber." All subscribers not defined as either residential or non-commercial.

(8) "FCC." The Federal Communications Commission.

(9) "Franchise." The nonexclusive rights granted pursuant to this chapter to construct, operate, and maintain a cable television system along the public rights-of-way within all of the city. Any such authorization, in whatever

form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the city as required by other ordinances and laws of the city.

(10) "Franchise agreement." A contract entered into between the city and the grantee pursuant to this chapter, containing additional provisions of the franchise granted.

(11) "Grantee." The person, partnership, firm, or corporation to whom a franchise, as herein defined, is granted by the city council under this chapter and the lawful successor, transferee, or assignee of said person, firm, or corporation.

(12) "Gross revenues." The following types of revenue received by a grantee directly from the operations of a cable television system in the city: regular subscriber service fees; per channel pay services; leased channel revenues; and converter and remote control rental revenues.

(13) "Person." Any individual, firm, partnership, association, corporation, or organization of any kind.

(14) "Residential subscriber." A subscriber who receives cable television/service in a single-family home or an individual dwelling unit of a multiple dwelling, where the service is not to be utilized with a business trade or profession.

(15) "Service area." The geographical area within the incorporated limits of the city as now exist or hereafter are expanded.

(16) "Street(s)." The surface of and the space above and below any publicly owned or maintained property or right-of-way, street, road, highway, freeway, land, path, alley, court, sidewalk, parkway, or drive, now or hereafter as such within the city.

(17) "Subscriber." Any person or entity lawfully receiving any portion of the cable television service of a grantee pursuant to this chapter. (1993 Code, § 9-602)

9-403. Acceptance: effective date. (1) Within thirty (30) days after final action granting a franchise which shall be done by resolution by the city council, the grantee shall file with the city clerk a written acceptance acknowledged before a notary public of the conditions required by the franchise. Such acceptance shall acknowledge that the grantee agrees to be bound by and to comply with the provisions of this chapter, the franchise agreement (if any) and applicable law and shall be in such a form and content as to be approved by the city attorney. If such acceptance is not filed in said time, then the franchise so awarded may be deemed void and of no further force and effect and the offer of franchise so awarded may stand revoked at the option of the city.

(2) Concurrently with the filing of the written acceptance, the grantee shall file with the city clerk the bond and insurance certificate required by this chapter.

(3) The effective date of the franchise shall be the first day of the first month next following the date on which the grantee files the acceptance, bond, and insurance certificate as required herein; provided, however, if any of the material required to be filed with the acceptance or the acceptance itself is defective or fails to meet with approval, the franchise shall not be in effect until such defect is cured, or such approval is obtained. (1993 Code, § 9-603)

9-404. Term of franchise. The duration of a franchise granted pursuant to this chapter shall be in full force and effect for a term of ten (10) years. The term of the franchise shall be automatically extended for an additional five (5) years, provided that the grantee has materially performed to the terms and conditions of the franchise. (1993 Code, § 9-604)

9-405. Revocation of franchise and other penalties. (1) Subject to the provisions of this section, city reserves the right to revoke, at any time, any franchise granted hereunder and rescind all rights and privileges associated therewith in the event, that:

(a) Grantee has not substantially complied with a material provision of this chapter, the franchise agreement, or of any supplemental written agreement entered into by and between the city and the grantee;

(b) Grantee has made a material false statement in the application for the franchise, knowing it to be false, or grantee commits a fraud in its conduct or relations under the franchise with the city;

(c) Grantee becomes insolvent, enters into receivership or liquidation, files for bankruptcy or assignment for benefit of creditors, is unable to pay its debts as they mature, unless the grantee is in due process of contesting such debts;

(d) Grantee fails to comply with any final federal or state judgment arising directly from the exercise of grantee's rights under its franchise;

(e) Grantee fails to provide or maintain in full force and effect the bond and insurance policies required by this chapter; or

(f) Grantee assigns, sells, or transfers its title or interest in its franchise without the consent of the city council.

(2) In the event that the city shall make a preliminary decision to revoke a franchise granted hereunder, it shall give the grantee a minimum of sixty (60) days' written notice of its intention to terminate and stipulate the cause. A public hearing shall be scheduled for the end of said sixty (60) day period. If during said period, the cause shall be cured to the satisfaction of the city, the city shall declare the notice to be null and void. If the cause is not cured to the satisfaction of the city before a franchise may be terminated, the grantee must be provided with an opportunity to be heard before the city council in a public hearing in accordance with due process procedures. After the public hearing, if the city determines that the franchise should be terminated, it shall

issue a written decision containing its findings of fact and stating the specific grounds for termination. The decision to terminate a franchise shall be subject to judicial review as provided by law.

(3) A grantee shall not be declared in default or be subject to any sanction under any provision of this chapter in any case where the action justifying such sanction is without the grantee's knowledge or authorization or outside its control. (1993 Code, § 9-605)

9-406. Transfer of cable television system. (1) No transfer of control of the cable television system other than a pro forma transfer to a parent or a wholly owned subsidiary corporation, or to a partnership with the same general partner as grantee, or hypothecation as the result of a commercial loan shall take place, whether by force or voluntary sale, lease, assignment, foreclosure, attachment, merger, or any other form of disposition, without prior notice to and approval by the city council, which approval shall not be unreasonably withheld. The notice shall include full identifying particulars of the proposed transaction. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the city may inquire into the qualifications of the prospective controlling party and the grantee shall assist the city in any such inquiry. The city shall have ninety (90) days within which to approve or disapprove, by resolution, the proposed transfer of control. If the city fails to act within said ninety (90) day period, the application to transfer control or assign the franchise shall be deemed to be granted.

(2) Approval of such transfer shall be expressly conditioned upon full compliance with the material terms of the franchise and this chapter. The transferee shall agree in writing to comply with all provisions of this chapter and the franchise agreement.

(3) For the purpose of this section, the term "control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of affiliated persons of twenty five percent (25%) of the voting shares of the grantee. (1993 Code, § 9-606)

9-407. Authority granted by the franchise. (1) The grantee of any franchise granted pursuant to the provisions of this chapter shall, subject to the conditions and restrictions set out in this chapter, be authorized to construct or have constructed, operate, and maintain a cable television system, and to engage in the business of providing cable television service in the city as defined herein and in the franchise and for that purpose to erect, install, construct, repair, replace, reconstruct and maintain such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the cable television system; provided, however, that before any pole, wire, or other thing mentioned

above which is necessary and appurtenant to the cable television system is placed on or within any street, the required permits to do so must be obtained by the grantee from the city; and, provided further, that before any such construction is commenced, the plans and specifications thereof must be approved in writing by the public works director of the City of Decherd. It shall be unlawful for any telephone, telegraph, or power company or any other public utility company or person to lease or otherwise make available to any person, any poles, lines, facilities, equipment, or other property for use in connection with the operation of a cable television system or the provision of cable television service, unless such other person holds a valid franchise granted pursuant to the provisions of this chapter.

(2) The authority granted to a grantee pursuant to the provisions of this chapter is not and shall not be deemed to be an exclusive right or permission. The city expressly reserves the right to grant one (1) or more non-exclusive franchises to operate a cable television system to other persons for the entire franchise area at any time under the same substantive terms and conditions as apply to the existing grantee. No such additional franchise granted by the city shall affect the obligations of any other grantee.

(3) If the city grants an additional franchise under this chapter which contains terms deemed more favorable by any existing grantee, said existing grantee may elect to incorporate said terms or provisions into its existing franchise upon notice to the city. (1993 Code, § 9-607)

9-408. Franchise fee. (1) Because the city finds that the administration of a franchise granted pursuant to this chapter imposes upon the city additional regulatory responsibility and expense, a grantee of any franchise hereunder shall pay to the city, within ninety (90) days after the end of its fiscal year, an annual sum equal to five percent (5%) of its gross revenues. This fee shall be in addition to any and all taxes which are now or may be required hereafter to be paid pursuant to any federal, state, or local law. This fee shall be deemed to reimburse the city for all costs of regulating the cable television system of the grantee and shall cover the expenses of all regulatory requirements including, but not limited to, any performance testing required by the city under the terms of this chapter and any renewal or transfer procedures arising hereunder.

(2) Acceptance of payments hereunder shall not be construed as a release of as an accord and satisfaction of any claim the city may have for further or additional sums payable under this chapter or for the performance of any other obligations hereunder. (1993 Code, § 9-608)

9-409. Limitations of franchise. (1) In addition to the limitations otherwise herein appearing, the franchise is subject to the limitation that the grantee shall at all times during the life of any franchise hereunder be subject to the lawful exercise of its police power by the city and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances

which the city has adopted or shall adopt applying to the public generally and shall be subject to all laws of the State of Tennessee and the United States.

(2) Time shall be of the essence in any franchise granted hereunder. The grantee shall not be relieved of its obligations to comply promptly with a provision of this chapter by the failure of the city to enforce compliance. Failure of the city to enforce any breach by the grantee shall not constitute a waiver by the city.

(3) Any poles, cable, electronic equipment or other appurtenances of the grantee to be installed in, under, over, along, across, or upon a street shall be so located so as to cause minimum interference with the public use of the streets and to cause minimum interference with the rights of other users of the streets or of property owners who adjoin any of the streets.

(4) In the event of disturbance of any street, other public property, or private property by grantee, it shall, at its own expense and using reasonable efforts, replace and restore property to the condition existing before the work was done.

(5) Grantee shall contract, maintain, and operate the cable television system so as to cause minimum inconvenience to the general public. All excavations shall be properly guarded and protected. All excavations shall be filled and the surface restored promptly after completion of the work at grantee's sole cost and expense. The grantee shall at all times comply with all excavation ordinances of the city.

(6) The grantee shall, upon reasonable notice from any person holding a building moving permit issued by the city, temporarily alter its facilities to permit the moving of such building. The actual cost of such altering shall be borne by the person requesting the altering and the grantee shall have the right to request payment in advance. For the provisions of this chapter, reasonable notice shall be construed to mean at least seventy-two (72) hours prior to the move.

(7) If, at any time, in case of fire or disaster in the city it shall become necessary in the judgement of the city manager or the chief of the fire department or their designee to cut or move any of the wires, cable amplifiers, appliances, or appurtenances thereto of the grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the grantee at no expense to the city. (1993 Code, § 9-609)

9-410. Additional city rights in franchise. (1) The city reserves the right upon reasonable notice to require the grantee at his expense to protect, support, temporarily disconnect, relocate, or remove from the streets any property of the grantee by reason of traffic conditions, public safety, street construction or excavation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communication lines, tracts, or other types of structure or improvements by governmental agencies. Reasonable notice for this provision of the chapter shall be construed to mean at least thirty (30)

days except in the case of emergencies where no specific notice period shall be required.

(2) In the event of the failure by the grantee to complete any work required by subsection (1) above or any work required by city law or ordinance within the time established, the city may cause such work to be done and the grantee shall reimburse the city the reasonable costs thereof within thirty (30) days after receipt of an itemized list of such cost.

(3) The city reserves the right, in the event of an emergency or disaster, to require the grantee to make available to the city manager, upon request, grantee's audio override, if any, and community channel, if any, at no cost, for emergency use during such emergency or disaster period.

(4) The city reserves the right during the life of any franchise hereunder to inspect, upon reasonable notice, at all reasonable hours, the grantee's contracts and engineering records dealing with gross revenue and technical service provided by grantee, provided that information pertaining to service to individual subscribers will be available pursuant to § 631 of the Cable Act.

(5) The city reserves the right during the life of any franchise granted hereunder to install and maintain free of charge upon the poles or in the conduits of a grantee any wire and pole fixtures necessary for municipal networks such as police and fire, on the condition that such installations and maintenance thereof do not interfere with the operations of the grantee.

(6) The city reserves the right during the life of any franchise granted hereunder to reasonably inspect all construction or installation work performed subject to the provisions of the chapter to ensure compliance with the terms of the chapter. At its own expense, the city may also perform measurements upon and randomly inspect any portion of a grantee's system to ensure compliance with the technical standards under which the grantee is authorized to operate, provided that such measurement or inspection does not interfere with the operation of the cable television system.

(7) At any time during the term of the franchise, and upon thirty (30) days' notice, the city reserves the right to hold a public hearing for the expressed purpose of reviewing the general and specific performance of the grantee with regard to all franchise provisions contained herein or in any franchise agreement issued hereunder.

(8) Any right or power in or duty impressed upon any officer, employee, department, or board of the city shall be subject to transfer by the city council by law to any other officer, employee, department, or board of the city. The city reserves all rights not specifically granted herein, and the enumerations of the rights herein shall not be construed to be a limitation of any right or power the city may otherwise have. (1993 Code, § 9-610)

9-411. Service area. (1) Subject to the provisions of subsection (2) below, the grantee of any franchise hereunder shall offer cable television service

to all potential residential subscribers who are located within the city limits as of the effective date of the franchise. Subject to the provisions of subsection (2) below, the grantee shall offer cable television service to all potential residential subscribers within any area described in any annexation ordinance passed after the passage of this chapter, within one (1) year of the effective date of the said annexation ordinance.

(2) The grantee of any franchise hereunder shall offer cable television service to all potential residential subscribers located within one hundred fifty feet (150') of grantees feeder cable where there exists a minimum density of thirty-five (35) dwelling units per mile. The grantee may elect, but has no obligation, to offer cable television service to areas not meeting the above standard.

(3) In the event the continued use of a street is denied for any reasonable reason related to public health, safety, or welfare, the grantee will make every reasonable effort to provide residential service over alternate routes. (1993 Code, § 9-611)

9-412. Time for providing service. Unless otherwise authorized by the city council, all areas meeting the requirements of § 9-611(2) subsequent to the effective date of a franchise granted pursuant to this chapter shall be offered cable television service within twelve (12) months of the effective date of the annexation. (1993 Code, § 9-612)

9-413. Condition of use of streets. (1) The poles used for a distribution system shall be, to the extent possible, those erected and maintained by either a power company or a telephone company, or both. Notwithstanding any other provisions of this chapter, no poles except replacements for existing poles shall be erected by or for the grantee, in any street, except when necessary to service a subscriber. Any poles, wires, cable, or other facilities to be constructed or installed by grantee on or within the streets shall be constructed or installed only at such locations and depths and in such a manner as to comply with all state statutes and rules and regulations of the State of Tennessee, the city, and any other agency of competent jurisdiction.

(2) The installation of trunk and distribution lines, including service drops to subscribers, shall be made underground in areas where both telephone and power lines are underground or are placed underground and the service poles are removed. (1993 Code, § 9-613)

9-414. System design and channel capacity. The cable television system shall be constructed and operated in a manner as set forth in this chapter. The cable television system shall have a capacity of at least three hundred (300) MHZ bandwidth and shall be constructed and operated in a manner as set forth in this chapter. (1993 Code, § 9-614)

9-415. Interconnection. Where economically reasonable and technically possible, grantee may connect its system with other cable systems adjoining it so as to provide the widest possible combination of programming in the most efficient manner. (1993 Code, § 9-615)

9-416. Service to government buildings. The grantee shall, upon request therefor, provide and furnish without charge to all public educational institutions and governmental buildings within the service area and within one hundred fifty feet (150') of grantee's existing distribution cable, one (1) service outlet. The institutions shall be entitled to receive, free of charge, the grantee's basic cable television service. (1993 Code, § 9-616)

9-417. Parental control devices. The grantee shall at all times have available parental control devices for the purpose of controlling premium television programming on individual subscriber television sets. The grantee shall have the right to charge reasonable fees of the use of such devices. (1993 Code, § 9-617)

9-418. Construction standards. (1) Grantee shall construct, install, operate and maintain the cable television system in a manner consistent with all laws, ordinances, construction standards, governmental requirements and the construction and operational standards contained in this chapter and any franchise agreement.

(2) All installation and maintenance of electronic equipment shall be of a permanent nature, durable, and installed in accordance with the applicable sections of the *National Electric Safety Code*, the *National Electrical Code* of the National Bureau of Fire Underwriters and all state and local codes where applicable.

(3) Antenna supporting structures (towers) shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable local or state codes and regulations.

(4) All construction methods and standards shall conform to standard industry practices at the time of construction, and as specified herein and in any franchise agreement.

(5) Any contractor used by a grantee for construction, installation, operation, maintenance, or repair of system equipment must be properly licensed under the laws of the state to which the contractor is licensed, and all local ordinances.

(6) The city does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the locations shall be verified by excavation. (1993 Code, § 9-618)

9-419. Operational standards and performance monitoring.

(1) The cable television system shall be operated in compliance with the service standards established by the National Cable Television Association.

(2) The grantee shall put, keep, and maintain all parts of the system in good condition throughout the entire franchise term.

(3) The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(a) Service repair response time to a subscriber outage call shall not exceed forty-eight (48) hours except on weekends and holidays or in circumstances beyond the reasonable control of the grantee;

(b) Trained technicians shall respond on a twenty-four (24) hour day seven (7) days a week basis whenever ten (10) or more verifiable subscriber complaints of outage are received; and

(c) The grantee shall have a local, publicly listed telephone number. The grantee shall provide the means to accept complaint calls twenty-four (24) hours a day, seven (7) days a week. (1993 Code, § 9-619)

9-420. Rates and charges. Grantee shall file with the city schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. Grantee shall have the right to pass through to its subscribers all taxes and fees related to the provision of cable television service and grantee shall have the right to itemize all such taxes and fees on the customer bills. The city council reserves the right and authority to comment, whether publicly or in private, regarding grantee's schedule of rates and charges. (1993 Code, § 9-620)

9-421. Rights of individuals. (1) The grantee shall not deny service, deny access, or otherwise discriminate against subscribers or other users, or any citizen on the basis of race, color, religion, national origin, sex, or sexual orientation. The grantee shall comply at all times with all other applicable federal, state, and local laws and regulations, and all executive and administrative orders relating to nondiscrimination.

(2) Grantee shall comply with the individual privacy provisions contained in the Cable Act. (1993 Code, § 9-621)

9-422. Liability and indemnification. (1) The grantee shall, at its sole cost and expense, fully indemnify, defend, and save harmless the city, its officers, councils, commissions, and employees against any and all actions, liability, judgements, executions, claims, or demands whatsoever by others, including, but not limited to, copyright infringement and all other damages arising out of the installation or operation or maintenance of the cable television system authorized herein, whether or not any act of omission complained of is

authorized, allowed, or prohibited by this chapter and any franchise granted hereunder. Grantee shall further indemnify and save the city harmless against all liabilities to others arising out of such construction, operation, and maintenance, including, but not limited to, any liability for damages by reason of, or arising out of, any failure by grantee to secure licenses from the owners, authorized distributors, or licensees of programs to be transmitted or distributed by the grantee, and against any loss, cost, expense, and damages resulting therefrom, including reasonable attorney's fees, arising out of the grantee's exercise or enjoyment of this franchise, irrespective of the amount of any comprehensive liability policy required hereunder.

(2) The foregoing liability and indemnity obligations of the grantee pursuant to this section shall not apply to damages occasioned by acts of the city, its agents or employees, nor shall it be deemed a waiver of any defense of contributory negligence which the grantee may assert against the city, its agents or employees. (1993 Code, § 9-622)

9-423. Insurance. (1) At the time of filing written acceptance of the franchise, the grantee shall file with the city clerk certificates of insurance for the following:

(a) A general comprehensive public liability insurance policy, indemnifying, defending, and saving harmless the city, its officers, councils, commissioners, agents, or employees from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the grantee under the franchise granted hereunder with a minimum of liability of three hundred thousand dollars (\$300,000.00) for personal injury or death of any two (2) or more persons in any one (1) occurrence. Renewal certificates of such insurance shall be promptly forwarded to the city clerk as such renewals are made, and such insurance shall be constantly kept in force and effect during the term of this franchise.

(b) Property damage insurance indemnifying, defending, and saving harmless the city, its officers, councils, commissions, agents, and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of a grantee under the franchise granted hereunder with a minimum liability of three hundred thousand dollars (\$300,000.00) for property damage to any one (1) person and five hundred thousand dollars (\$500,000.00) for property damage to two (2) or more persons in any one (1) occurrence.

(2) Such insurance as provided for in this section shall be provided at the grantee's sole cost and expense and be kept in full force and effect by the grantee during the existence of the franchise and until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of the cable television system as defined in the franchise.

(3) All of the foregoing insurance contracts shall be issued and maintained by companies authorized to do business in the State of Tennessee and they shall require thirty (30) days' written notice of any cancellation or reduction in coverage to both the city and the grantee herein. (1993 Code, § 9-623)

9-424. Filing and communications with regulatory agencies. The grantee shall maintain copies of all petitions, applications, and communications, relative to any franchise granted pursuant to this chapter transmitted by the grantee to, or received by the grantee from, all federal and state regulatory commissions or agencies having competent jurisdiction to regulate the operations of any cable television system authorized hereunder. Said copies shall be available for inspection by the city during regular business hours of the grantee. (1993 Code, § 9-624)

9-425. Reports. The grantee shall file annually with the city manager not later than four (4) months after the end of its fiscal year during which it accepted a franchise hereunder and within four (4) months after the end of each subsequent fiscal year, a letter containing the amount of the gross revenues for the previous fiscal year certified by grantee's controller or chief financial officer. (1993 Code, § 9-625)

9-426. Franchise renewal. Upon completion of the term of any franchise granted pursuant to this chapter, the procedures for franchise renewals as established by the Cable Act will apply. (1993 Code, § 9-626)

9-427. Franchise required. It shall be unlawful for any person to construct, operate, or maintain a cable television system in the city unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise granted pursuant to this chapter. It shall also be unlawful for any person to provide cable television service in the city unless such person shall have first obtained and shall currently hold a valid franchise granted pursuant to the provisions of this chapter. All franchises granted by the city pursuant to this chapter shall contain the same substantive terms and conditions. (1993 Code, § 9-627)

9-428. Unauthorized connections or modifications. (1) It shall be unlawful for any person without the expressed consent of the grantee, to make any connection, extension, or division whether physically, acoustically, inductively, electronically, or otherwise with or to any segment of the cable television system for any purpose whatsoever.

(2) It shall be unlawful for any person to willfully interfere, tamper, remove, obstruct, or damage any part, segment, or content of a franchised cable television system for any purpose whatsoever.

(3) Any person found guilty of violating this section may be assessed a fine not to exceed fifty dollars (\$50.00) or sentenced to thirty (30) days in jail, or both. (1993 Code, § 9-628, modified)

9-429. Notice. Whenever under the terms of the franchise either party shall be required or permitted to give notice to the other, such notice shall be in writing and if to be served on the city, it shall be delivered either by first class U.S. mail or by handing such notice to the city manager at the city municipal offices, and if to grantee, then by delivering by first class U.S. mail or by handing such notice to such officer at such address as grantee shall from time to time direct. The original name and address of the officer on behalf of grantee shall be included in grantee's acceptance of the franchise. (1993 Code, § 9-629)

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

1. IN GENERAL.
2. DOGS.
3. VICIOUS DOGS.

CHAPTER 1**IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Inspections of premises.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1993 Code, § 10-101)

10-102. Keeping near a residence or business restricted. No person shall keep any other animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence, place of business, or public street without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances, as set forth in the application for the permit, will not injuriously affect the public health. (1993 Code, § 10-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1993 Code, § 10-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water,

shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1993 Code, § 10-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of noise, odor, contagious disease, or other reason. (1993 Code, § 10-105)

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the city council. If the owner is known, he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case, the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the city council.

The pound keeper shall be entitled to collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance. (1993 Code, § 10-107)

10-107. Inspections of premises. For the purpose of making inspections to ensure compliance with the provisions of this chapter, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1993 Code, § 10-108)

CHAPTER 2

DOGS¹

SECTION

10-201. Rabies vaccination and registration required.

10-202. Dogs to wear tags.

10-203. Running at large restricted.

10-204. Vicious dogs to be securely restrained.

10-205. Noisy dogs prohibited.

10-206. Confinement of dogs suspected of being rabid.

10-207. Seizure and disposition of dogs.

10-208. Running at large prohibited.

10-209. Schedule of pound fees.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-114). (1993 Code, § 10-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1993 Code, § 10-202)

10-203. Running at large restricted.² It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits in such manner as to create a nuisance. (1993 Code, § 10-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. (1993 Code, § 10-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys or disturbs the peace and quiet of any neighborhood. (1993 Code, § 10-205)

¹Whenever this chapter references "dogs," cats are included.

²State law reference

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

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may cause such dog to be confined or isolated for such time as he reasonably deems necessary to determine if such dog is rabid. (1993 Code, § 10-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by the health officer or any police officer and placed in a pound provided or designated by the city council. If said dog is wearing a tag, the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag, it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded, it may be summarily destroyed by the health officer or any police officer.¹ (1993 Code, § 10-207)

10-208. Running at large prohibited. Upon seven (7) days' notice to the public and for periods of time set by the city council, all dogs, during those announced designated times, shall be under the total control of its owner(s) and/or keeper(s) at all times within the corporate limits of the city. Total control is: all dogs shall be secured to a leash that is also secured to a fixed immovable object; behind a secure, well constructed fence that shall keep the dog(s) inside; or inside the owner(s) and/or keeper(s) home of record where he (they) habitually sleep or such other structure on the same property where the dog(s) shall not have the freedom to come and go as it pleases. When the dog(s) is taken out away from the owner(s) and/or keeper(s) property, it shall be led by a leash or the leash secured to a vehicle when moving about the city. Voice (command) control shall be total control, providing the dog(s) is with the owner(s) or keeper(s) on their private property, occupied by the owner(s) or keeper(s).

Any dog(s) found in violation of any sections of this chapter shall be seized by any health or police officer. The owner(s) and or keeper(s) shall be charged

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see *Darnell v. Shapard*, 156 Tenn. 544, 3 S.W.2d 661 (1928).

and the following penalties shall be imposed in addition to the applicable court costs, fees, and penalties (re: § 3-108) plus any other applicable fees and damages to public/private properties that may be assessed: for violations within the period of one (1) year; thirty dollars (\$30.00) for the first offense; forty dollars (\$40.00) for the second offense; fifty dollars (\$50.00) for the third offense plus the court may order the humane destruction of the dog(s) or cause it (them) to be impounded for resale to another owner. Should there be a "dog bite victim," the penalties shall be: fifty dollar (\$50.00) fine and fifty dollar (\$50.00) court costs plus all applicable fees. The court costs, when collected in a dog bite case, shall be receipted to the victim to assist in the costs of medical treatment. The dog shall be humanely destroyed by the city police department and/or the county health officer when declared vicious by the order of the judge of the circuit court. (*Tennessee Code Annotated*, § 44-17-120). (1993 Code, § 10-208)

10-209. Schedule of pound fees. The owner of the dog may appear within five (5) days and redeem his dog by paying a reasonable pound fee. This is upon first violation that a pound fee will be assessed. Upon second violation of § 10-208 (running at large prohibited), and the dog is seized by a health officer or any police officer, then the owner(s) and keepers shall be charged and applicable court cost, fees, and penalties. For violations of § 10-207, a pound fee of twenty dollars (\$20.00) shall be assessed for the release of any dog seized by a health officer or any police officer from the pound as designated by board of mayor and aldermen. (1993 Code, § 10-209)

CHAPTER 3

VICIOUS DOGS

SECTION

- 10-301. Definitions.
- 10-302. Vicious dogs prohibited.
- 10-303. Procedure for determining that a dog is vicious.
- 10-304. Impoundment of vicious dogs.
- 10-305. Court proceedings against the owner.
- 10-306. Court findings.
- 10-307. Guard dogs.
- 10-308. Violations and penalty.

10-301. Definitions. (1) "Confined." Securely confined indoors, within an automobile or other vehicle, or confined in a securely enclosed and locked pen or structure upon the premises of the owner of such dogs.

(2) "Muzzle." A device constructed of strong, bite-resistant material, which fastens over the mouth of a dog so as to prevent it from biting any person or other animal.

(3) "Physical restraint." A muzzle and a leash not to exceed six feet (6'). The leash must be controlled by an adult physically capable of controlling such dog. The muzzle must not cause injury to the dog.

(4) "Securely enclosed and locked pen or structure." A fenced-in area that shall be a minimum of five feet (5') wide, ten feet (10') long and five feet (5') in height above grade and with a horizontal top covering said area, all to be at least nine (9) gauge chain link fencing with necessary steel supporting the posts. The floor should be at least three inches (3") of poured concrete with the bottom edge of the fencing embedded in the concrete or extending at least one foot (1') below grade. The gate must be of the same materials as the fencing, fit securely, and be kept securely locked. The owner shall post the enclosure with a clearly visible warning sign, including a warning symbol to inform children that there is a dangerous dog on the property. The enclosure shall contain and provide protection from the elements for the dog.

(5) "Vicious dog." Any dog which:

(a) Approaches any person in an aggressive, menacing, or terrorizing manner or in an apparent attitude of attack if such person is upon any public ways, including streets and sidewalks, or any public or private property;

(b) Has any known propensity, tendency, or disposition to attack, inflict injury to, or to otherwise endanger the safety of persons or domestic animals;

(c) Without provocation, bites or inflicts injury or otherwise attacks or endangers the safety of any person or domestic animal; or

(d) Is trained for dog fighting or which is owned or kept primarily or in part for the purpose of dog fighting. (1993 Code, § 10-301)

10-302. Vicious dogs prohibited. It shall be unlawful for any person to keep or harbor a vicious dog within the corporate limits of the City of Decherd unless said vicious dog is confined in compliance with this chapter. (1993 Code, § 10-302)

10-303. Procedure for determining that a dog is vicious. (1) Upon his own complaint alleging a dog to be vicious, or upon the receipt of such a complaint signed by one (1) or more residents of Decherd, the animal control officer shall hold a hearing within five (5) days of serving the notice to the dog owner. The purpose of the hearing shall be to determine whether such dog is, in fact, vicious. The dog owner shall be notified by a certified letter of the date, time, place, and purpose of the hearing and may attend and have an opportunity to be heard.

(2) In making the determination as to whether a dog is vicious, the animal control officer shall consider, but is not limited to, the following criteria:

- (a) Provocation;
- (b) Severity of attack or injury;
- (c) Previous aggressive history of the dog;
- (d) Observable behavior of the dog;
- (e) Site and circumstances of the incident;
- (f) Age of the victim;
- (g) Statements from witnesses and other interested parties;
- (h) Reasonable enclosures already in place; and
- (i) Height and weight of the dog.

(3) Within five (5) days of the hearing, the animal control officer shall determine whether to declare the dog vicious and shall within five (5) days after such determination notify the owner by certified mail of the dog's designation as a vicious dog and the specific restrictions and conditions for keeping the dog. If the dog is declared vicious, its owner shall confine the dog within a secure enclosure and whenever the dog is removed from the secure enclosure it shall be physically restrained, as defined in this chapter. The owner of the vicious dog shall notify residents of all abutting properties, including those across the street, of such findings. This notice to occupants of abutting properties shall be by certified mail, return receipt requested and shall be at the owner's sole expense. The animal control officer may:

- (a) Vary the minimum requirements of a secure enclosure if the owner's residence cannot accommodate a secure enclosure as defined in this chapter; or
- (b) Permit an alternate method of enclosure, provided that, in the sole discretion of the animal control officer, such alternate method fulfills the objectives as a secure enclosure.

(4) No dog shall be declared vicious if the threat, injury, or damage was sustained by a person who:

(a) Was committing a crime or willful trespass or other tort upon the premises occupied by the owner of the dog;

(b) Was teasing, tormenting, abusing, assaulting, or provoking the dog; or

(c) Was committing or attempting to commit a crime.

No dog shall be declared vicious as the result of protecting or defending a human being, any other animal, or itself against an unjustified attack or assault. (1993 Code, § 10-303)

10-304. Impoundment of vicious dogs. Any vicious dog not in compliance with the provisions of this chapter may be taken into custody by the appropriate authorities of the City of Decherd, or agents acting on behalf of the city, and impounded. The dog's owner shall be solely responsible for payment of all boarding fees associated with the impounding of the dog, in addition to any punitive fines to be paid. (1993 Code, § 10-304)

10-305. Court proceedings against the owner. If any vicious dog is impounded, the City of Decherd may institute proceedings in general sessions court charging the owner with violation of this chapter. Nothing in this section, however, shall be construed as preventing the City of Decherd or any citizen from instituting a proceeding for violation of this chapter where there has been no impoundment. (1993 Code, § 10-305)

10-306. Court findings. If a complaint has been filed in general sessions court against the owner of the dog for violation of this chapter, the dog shall not be released from impoundment or disposed of except on order of the court, payment of all charges and costs under this chapter, including penalties for violating this chapter. The court may, upon making a finding that the dog is vicious pursuant to this chapter, order the dog to be destroyed in a humane manner. (1993 Code, § 10-306)

10-307. Guard dogs. It shall be unlawful for any person to place or maintain guard dogs in any area of the City of Decherd for the protection of persons or property unless the following provisions are met:

(1) The guard dog shall be confined;

(2) The guard dog shall be under the direct and absolute control of a handler at all times when not confined; and

(3) The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs stating that such a dog is on the premises. At least one (1) such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible for either the curb line or a distance of fifty feet (50'), whichever is lesser and shall

contain a telephone number where some person responsible for controlling such a guard dog can be reached twenty-four (24) hours a day. (1993 Code, § 10-307)

10-308. Violations and penalty. Any person violating the provisions of this chapter, upon conviction, shall be fined fifty dollars (\$50.00) and each day of violation shall be deemed a separate violation. (1993 Code, § 10-308)

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. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
6. OBSCENITY, MORALS.
7. LOITERING, ETC.
8. MISCELLANEOUS.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking beer, etc., on streets, etc.
 11-102. Minors in beer places.
 11-103. Violations and penalty.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, city buildings, city owned property or other public place unless on premises licensed for "on-premises" beer consumption. (1993 Code, § 11-101, as replaced by Ord. #431, June 2021 *Ch2_04-09-24*)

¹Municipal code references

Animal control: title 10.

Residential and utilities: title 12.

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

Traffic offenses: title 15.

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).

11-102. Minors in beer places. No minor under twenty-one (21) years of age shall loiter in or around, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1993 Code, § 11-102, modified)

11-103. Violations and penalty. A violation of this section shall be a Class "C" misdemeanor punishable by fine. A law enforcement officer shall issue a citation in lieu of continued custody, unless the offender refuses to sign and accept the citation, as provided in *Tennessee Code Annotated*, §40-7-118. (1993 Code, § 11-103, as replaced by Ord. #431, June 2021 **Ch2_04-09-24**)

CHAPTER 2**OFFENSES AGAINST THE PERSON****SECTION**

11-201. Coercing people not to work.

11-201. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1993 Code, § 11-202)

CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-301. Anti-noise regulations.

11-302. Violations and penalty.

11-301. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

(b) 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 any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(d) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(e) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

(f) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine,

motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(g) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues, not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(h) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(i) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(j) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(k) Refrigerated trucks. The operation of internal combustion engines for the purpose of cooling refrigerated trucks parked in residential areas.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the city while engaged upon necessary public business;

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the

course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1993 Code, § 11-302, modified)

11-302. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. (1993 Code, § 11-303, modified)

CHAPTER 4**FIREARMS, WEAPONS, AND MISSILES****SECTION**

11-401. Air rifles, etc.

11-402. Weapons and firearms generally.

11-401. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a bullet or pellet, made of metal, plastic, or any other kind of material, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. A violation of this section shall subject the offender to a penalty of up to seventy-five dollars (\$75.00) for each offense. (1993 Code, § 11-401)

11-402. Weapons and firearms generally. It shall be unlawful for any unauthorized person to discharge a firearm within the town. A violation of this section shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. (1993 Code, § 11-403, modified)

CHAPTER 5

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

- 11-501. Trespassing.
- 11-502. Trespassing on trains.
- 11-503. Interference with traffic.
- 11-504. Violations and penalty.

11-501. Trespassing.¹ (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful, or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.² (1993 Code, § 11-501)

¹State law reference

Subsections (1) through (4) of this section were taken substantially from *Tennessee Code Annotated*, § 39-14-405.

²Municipal code reference

11-502. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to, any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment, or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1993 Code, § 11-502)

11-503. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon. (1993 Code, § 11-503)

11-504. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. (1993 Code, § 11-504, modified)

(...continued)

Provisions governing peddlers: title 9, chapter 2.

CHAPTER 6**OBSCENITY, MORALS****SECTION**

11-601. Disorderly houses.

11-602. Immoral conduct.

11-603. Obscene literature, etc.

11-604. Indecent or improper exposure or dress.

11-605. Window peeping.

11-606. Profanity, etc.

11-601. Disorderly houses. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution or lewdness or where drunkenness, quarreling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Furthermore, it shall be unlawful for any person to knowingly visit any such house. (1993 Code, § 11-601)

11-602. Immoral conduct. No person shall commit, offer, or agree to commit, nor shall any person secure or offer another for the purpose of committing a lewd or adulterous act or an act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for any such purpose. (1993 Code, § 11-602)

11-603. Obscene literature, etc. It shall be unlawful for any person to publish, sell, exhibit, distribute, or possess for the purpose of loaning, selling, or otherwise circulating or exhibiting, any book, pamphlet, ballad, movie film, filmstrip, phonograph record, or other written, printed, or filmed matter containing obscene language, prints, pictures, or descriptions manifestly intended to corrupt the morals. (1993 Code, § 11-603)

11-604. Indecent or improper exposure or dress. It shall be unlawful for any person to publicly appear naked or in any dress not appropriate to his or her sex, or in any indecent or lewd dress, or to otherwise make any indecent exposure of his or her person. (1993 Code, § 11-604)

11-605. Window peeping. No person shall spy, peer, or peep into any window of any residence or dwelling premise that he does not occupy, nor shall

he loiter around or within view of any such window with the intent of watching or looking through it. (1993 Code, § 11-605)

11-606. Profanity, etc. No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or around any place of business open to the use of the public in general. (1993 Code, § 11-606)

CHAPTER 7**LOITERING, ETC.****SECTION**

11-701. Loitering.

11-702. Prowling.

11-703. Vagrancy.

11-701. Loitering. It shall be unlawful for any person without legitimate business or purpose to loaf, loiter, wander, or idle in, upon, or about any way or place customarily open to public use. (1993 Code, § 11-801)

11-702. Prowling. It shall be unlawful for any person to prowl or wander about the streets, alleys, or other public or private ways or places, or be found abroad at late or unusual hours in the night without any visible or lawful business and when unable to give a satisfactory account of himself. (1993 Code, § 11-802)

11-703. Vagrancy. It shall be unlawful for any person to beg or solicit alms or, if without apparent lawful means of support, to wilfully neglect to apply himself to some honest occupation. (1993 Code, § 11-803)

CHAPTER 8**MISCELLANEOUS****SECTION**

11-801. Shoplifting.

11-801. Shoplifting. It shall be unlawful for any person if, with the intent to deprive a merchant of the price, he or she conceals the merchandise, removes or causes the removal of the merchandise, changes or removes a price sticker, transfers the merchandise to another container, or causes the cash register to ring up a lesser price. (1993 Code, § 11-905)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. FUEL GAS CODE.
5. RESIDENTIAL CODE.
6. DANGEROUS BUILDINGS.
7. FAIR HOUSING CODE.
8. EXISTING BUILDING CODE.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
 12-102. Exceptions, amendments, and deletions.
 12-103. Modifications.
 12-104. Available in recorder's office.
 12-105. Fee for supplying "codes compliance documents."
 12-106. Violations and penalty.

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 regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the *International Building Code*,² 2018 edition, is hereby adopted with amendments and incorporated as a part of this code and is hereinafter referred to as the building code. (Ord. #399, _____, as replaced by Ord. #435, July 2021 *Ch2_04-09-24*)

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 are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-102. Exceptions, amendments, and deletions.

(1) Chapter 11. Delete in its entirety.

(2) Section 105.1 added to the end this paragraph which reads:

No building permit shall be issued for new construction until the applicant shall establish that he has arranged for water and sewer taps to be made promptly upon completion. (Ord. #399, _____, replaced by Ord. #435, July 2021 *Ch2_04-09-24*)

12-103. 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. The schedule of permit fees shall be as provided in the following schedule:

SCHEDULE OF PERMIT FEES

An evaluation process for all new construction and additions will be calculated as follows:

Residential - One- and two-family	\$100 per square foot
Residential - Multi-family	\$100 per square foot
Commercial	\$110 per square foot
Industrial	based on plan evaluation

After the evaluation has been done then the following permit fees will apply:

\$1,000 and less	No fee, unless inspection required, in which case \$25.00 fee for each inspection shall be charged.
\$1,000 to \$50,000	\$15.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.
\$50,000 to \$100,000	\$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.
\$100,000 to \$500,000	\$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00.
\$500,000 and up	\$1,660.00 for first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

Moving fee For the moving of any building or structure	\$100.00
Demolition fee For the demolition of any building or structures	
0 up to 100,000 cu. ft.	\$50.00
100,000 cu. ft. and over	\$0.50 per 1,000 cu. ft.
Moving of buildings or structures	\$100.00 (Pre-manufactured sheds and/or out buildings that are not built on site are exempt from building permit, but must meet zoning requirements)
Plumbing	\$10.00 plus \$3.00 per fixture fee
Roofing (other than new construction)	\$15.00 minimum, up to \$15,000.00, then \$1.00 per \$1,000.00 (only if more than half the roof is being replaced)
Siding (other than new construction)	\$15.00
Swimming pools (above and below ground)	\$25.00
Business signs (as defined by Ordinance #252)	\$25.00 per face
Special called meeting of planning or zoning commission	\$100.00

No building permit shall be issued for new construction until the applicant shall establish that he has arranged for water and sewer taps to be made promptly upon completion. All site plans or other approvals from regulating boards must be approved before permits are issued if such approval is required (Ord. #349, March 2010, as amended by Ord. #416, April 2019 *Ch1_6-19-19*, and replaced by Ord. #440, July 2022 *Ch2_04-09-24*)

12-104. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public during regular business hours. (Ord. #349, March 2010)

12-105. Fee for supplying "codes compliance documents." When the recorder is requested to provide a "codes compliance document" to realty companies, real estate agents, brokers, or similar businesses or persons involved in the business of buying and selling buildings of all types, said services in providing a "codes compliance document" will be compensated for by a fee of fifteen dollars (\$15.00) and shall be paid to the city recorder. (Codes compliance documents are identified as: a letter stating a structure does or does not meet the minimum standards of the building, fire prevention, plumbing, electrical, housing codes, and such other requirements noted within the Decherd Municipal Code.) (Ord. #349, March 2010)

12-106. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (Ord. #349, March 2010)

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Exceptions, amendments, and deletions.
- 12-203. Modifications.
- 12-204. Available in recorder's office.
- 12-205. Violations and penalty.

12-201. Plumbing code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the *International Plumbing Code*,² 2018 edition with amendments, is hereby adopted and incorporated as a part of this code and is hereinafter referred to as the plumbing code. (Ord. #399, ____, as replaced by Ord. #435, July 2021 *Ch2_04-09-24*)

12-202. Exceptions, amendments, and deletions.

- (1) 1003.1, Interceptors, and separators shall be provided as required by the Decherd Municipal Code Title 18.
- (2) 1003.3.4.1, Grease Interceptor Capacity
Grease Interceptor capacity (where required) shall be governed by Table 1003.3.4.1 and the Decherd Municipal Code Title 18.
- (3) 1108, Combined Sanitary and Storm Water System, shall be deleted.
- (4) Other amendments adopted by the State of Tennessee. (Ord. #399, ____, as replaced by Ord. #435, July 2021 *Ch2_04-09-24*)

12-203. Modifications. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing

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 are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

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 enforce the provisions of the plumbing code. The construction board of adjustment and appeals shall also serve as the plumbing board of adjustment and appeals. (Ord. #349, March 2010)

12-204. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the plumbing 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 business hours. (Ord. #349, March 2010)

12-205. Violations and penalty. 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. (Ord. #349, March 2010)

CHAPTER 3

ELECTRICAL CODE¹

SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Enforcement.
- 12-305. Fees.
- 12-306. Violations and penalty.

12-301. Electrical code adopted. The electrical code is pronounced by the State of Tennessee and inspected by the State of Tennessee Electrical Inspector. (Ord. #399, _____, modified, as replaced by Ord. #435, July 2021 *Ch2_04-09-24*)

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. (1993 Code, § 12-302)

12-303. Permit required for doing electrical work. No electrical work shall be done within the City of Decherd until a permit therefor has been issued by the city. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1993 Code, § 12-303)

12-304. Enforcement. The electrical inspector shall be such person as the city council shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to ensure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1993 Code, § 12-305)

¹Municipal code references

Fire protection, fireworks, and explosives: title 7.

12-305. Fees. The electrical inspector shall collect the same fees as are authorized in *Tennessee Code Annotated*, § 68-17-143 for electrical inspections by deputy inspectors of the state fire marshal. (1993 Code, § 12-306)

12-306. Violations and penalty. 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. (1993 Code, § 12-304)

CHAPTER 4

FUEL GAS CODE¹

SECTION

- 12-401. Fuel gas code adopted.
- 12-402. Title and definitions.
- 12-403. Purpose and scope.
- 12-404. Use of existing piping and appliances.
- 12-405. Bond and license.
- 12-406. Gas inspector and assistants.
- 12-407. Powers and duties of inspector.
- 12-408. Permits.
- 12-409. Inspections.
- 12-410. Certificates.
- 12-411. Fees.
- 12-412. Nonliability.
- 12-413. Violations and penalty.

12-401. Fuel gas code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 through 6-54-506, and for the purpose of regulating fuel gas codes, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such appliances is or is to be connected with the natural or propane systems, the *International Fuel Gas Code*,² 2018 edition with amendments adopted by the State of Tennessee, is hereby adopted and incorporated as a part of this code and is hereinafter referred to as the gas code. (Ord. #399, ____, as replaced by Ord. #435, July 2021 *Ch2_04-09-24*)

12-402. Title and definitions. This chapter and the code herein adopted by reference shall be known as "the gas code of the city" and may be cited as such.

The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Certain appliances." Conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers.

¹Municipal code reference

Gas system administration: title 19, chapter 1.

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

(2) "Certificate of approval." A document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

(3) "Gas company." Any person distributing gas within the corporate limits or authorized and proposing to so engage.

(4) "Inspector." The person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the city council.

(5) "Person." Any individual, partnership, firm, corporation, or any other organized group of individuals. (1993 Code, § 12-401)

12-403. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the fuel gas code, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (1993 Code, § 12-402, modified)

12-404. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1993 Code, § 12-403)

12-405. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the city recorder a good and sufficient bond in the penal sum of ten thousand dollars (\$10,000.00), with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the city recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

(2) Upon approval of said bond, the person desiring to do such work shall secure from the city recorder a non-transferable license which shall run until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay any applicable license fees to the city recorder.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1993 Code, § 12-404)

12-406. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the city council. (1993 Code, § 12-405)

12-407. Powers and duties of inspector. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of the gas code.

(2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or fixture or appliance without authorization by the inspector, and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1993 Code, § 12-406)

12-408. Permits. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler,

consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the city recorder; however, permits will not be required for setting or connecting other gas appliances, for the repair of leaks in house piping.

(2) When only temporary use of gas is desired, the inspector may issue a permit for such use, for a period of not to exceed sixty (60) days, provided the consumer's gas piping to be used is given a test equal to that required for a final piping inspection.

(3) Except when work in a public street or other public way is involved, the gas company shall not be required to obtain permits to set meters or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (1993 Code, § 12-407)

12-409. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six inches (6") in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1993 Code, § 12-408)

12-410. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if, after inspection, it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1993 Code, § 12-409)

12-411. Fees. (1) The total fees for inspection of consumers gas piping at one (1) location (including both rough and final piping inspection) shall be one dollar and fifty cents (\$1.50) for one (1) to five (5) outlets, inclusive, and fifty cents (\$0.50) for each outlet above five (5).

(2) The fees for inspecting conversion burners, floor furnaces, boilers, or central heating plants shall be one dollar and fifty cents (\$1.50) for each unit.

(3) The fees for inspecting vented wall furnaces and water heaters shall be one dollar (\$1.00) for each unit.

(4) If the inspector is called back, after correction of defects noted, an additional fee of one dollar (\$1.00) shall be made for each such return inspection.

(5) Any and all fees shall be paid by the person to whom the permit is issued. (1993 Code, § 12-410)

12-412. Nonliability. This chapter shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the city, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector. (1993 Code, § 12-412)

12-413. Violations and penalty. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined under the general penalty clause for this code of ordinances or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1993 Code, § 12-411)

CHAPTER 5

RESIDENTIAL CODE

SECTION

- 12-501. Residential code adopted.
- 12-502. Exemptions, amendments, and deletions.
- 12-503. Modifications.
- 12-504. Available in recorder's office.
- 12-505. Violations and penalty.

12-501. Residential code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy location, maintenance, removal, and demolition of one (1) and two (2) family (duplexes) or any appurtenance connected or attached the *International Residential Code*,¹ 2018 edition, is hereby adopted with amendments and incorporated as a part of this code, and is hereinafter referred to as the residential code. (Ord. #399, _____, as replaced by Ord. #435, July 2021 *Ch2_04-09-24*)

12-502. Exemptions, amendments, and deletions.

- (1) R313.2 One and two family dwellings automatic fire systems
This shall be changed to read:

Automatic fire systems are required in one and two family dwellings that equal or exceed 2500 sq. feet of living space. Existing buildings that are not already equipped with automatic sprinkler systems will not be required to install a system.

(2) R313.1 regarding Automatic Sprinkler systems in Townhouses, replace the exception with the following language: "An automatic residential fire sprinkler system shall not be required if a 2 hour fire resistance rated wall exists between units, if such walls do not contain plumbing and/or mechanical equipment, ducts or vents in the common wall.

(3) R315.1 Carbon Monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed outside each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel fired appliances are installed and in dwelling units with attached garages.

(4) IRC Chapters 34-43 concerning Electrical shall be deleted as the State of Tennessee does Electrical Inspections.

¹Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(5) Permits issued will be in good stance for two years of issuance, with work to begin no less than 180 days of issuance and completion within the two years. If work cannot be completed within the two year period, the Building Inspector may allow two extensions not to exceed 90 days each.

(6) Other amendments that were adopted by State of Tennessee. (Ord. #399, ____, as replaced by Ord. #435, July 2021 **Ch2_04-09-24**)

12-503. Modifications. Wherever the residential code refers to the "Building Official" it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the residential code. Wherever the "Department of Law" is referred to it shall mean the city attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the board of mayor and aldermen. (Ord. #349, March 2010)

12-504. Available in recorder's office. Pursuant to the requirements of *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public during normal business hours. (Ord. #349, March 2010)

12-505. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. Each day of continued violation shall be considered a separate offense. (Ord. #349, March 2010)

CHAPTER 6

DANGEROUS BUILDINGS

SECTION

- 12-601. Dangerous buildings defined.
- 12-602. Standards for repair, vacation, or demolition.
- 12-603. Dangerous buildings--nuisances.
- 12-604. Duties of building inspector.
- 12-605. Duties of recorder.
- 12-606. Duties of city attorney.
- 12-607. Emergency cases.
- 12-608. Where owner absent from the city.
- 12-609. Administrative liability.
- 12-610. Duties of fire department.
- 12-611. Duties of police department.
- 12-612. Supplemental remedy.
- 12-613. Violations and penalty.

12-601. Dangerous buildings defined. All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings:"

(1) Those whose interior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;

(2) Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage or deterioration of the supporting member or members, or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering;

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

(4) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City of Decherd;

(5) Those which have become or are so dilapidated, decayed, unsafe, insanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety, or general welfare of those living therein;

(6) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein;

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication;

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property;

(9) Those which because of their condition are unsafe, insanitary, or dangerous to the health, morals, safety, or general welfare of the people of the city; and/or

(10) Those buildings existing in violation of any provision of the building code or any provision of the fire prevention code or other ordinances of the city. (1993 Code, § 12-601)

12-602. Standards for repair, vacation, or demolition. The following standards shall be followed in substance by the building inspector and the recorder in ordering repair, vacation, or demolition.

(1) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.

(2) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(3) In any case where a "dangerous building" is fifty percent (50%) damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of the city or statute of the state, it shall be demolished. (1993 Code, § 12-602)

12-603. Dangerous buildings--nuisances. All "dangerous buildings" within the terms of § 12-601 are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided. (1993 Code, § 12-603)

12-604. Duties of building inspector. The building inspector shall:

(1) Inspect or cause to be inspected semi-annually, all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings for the purpose of determining whether any conditions exist which render such places a "dangerous building" within the terms of § 12-601;

(2) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this chapter;

(3) Inspect any building, wall, or structure reported (as hereinafter provided for) by the fire or police departments as probably existing in violation of the terms of this chapter;

(4) Notify in writing the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in said building as shown by the land records of the Register of Deeds of Franklin County, of any building found by him to be a "dangerous building" within the standards set forth in § 12-601, that:

(a) The owner must vacate, repair, or demolish said building in accordance with the terms of the notice and this chapter;

(b) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession; and

(c) The mortgagee, agent, or other persons having an interest in said building as shown by the land records of the register of deeds may at his own risk repair, vacate, or demolish said building or have such work or act done; provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty (30) days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

(5) Set forth in the notice provided for in subsection (4) above, a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building," and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding thirty (30) days, as is reasonable;

(6) Report to the recorder any non-compliance with the "notice" provided for in subsections (4) and (5) above;

(7) Appear at all hearings conducted by the recorder, and testify as to the condition of "dangerous buildings;" and

(8) Place a notice on all "dangerous buildings" reading as follows:
 "This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown by the land records of the Register of Deeds of Franklin County. It is unlawful to remove this notice until such notice is complied with." (1993 Code, § 12-604)

12-605. Duties of recorder. The recorder shall:

(1) Upon receipt of a report of the building inspector as provided for in § 12-604(6), give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the

land records of the Register of Deeds of Franklin County to appear before him on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the building inspector's notice provided for herein in § 12-604(5);

(2) Hold a hearing and hear such testimony as the building inspector or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the land records of the register of deeds shall offer relative to the "dangerous building;"

(3) Make written findings of fact from the testimony offered pursuant to subsection (2) above as to whether or not the building in question is a "dangerous building" within the terms of § 12-601;

(4) Issue an order based upon findings of fact made pursuant to subsection (3) above commanding the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the land records of the register of deeds, to repair, vacate, or demolish any building found to be a "dangerous building" within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building;" or any person not the owner of said "dangerous building" but having an interest in said building as shown by the land records of the register of deeds may demolish said "dangerous building" at his own risk to prevent the acquiring of a lien against the land upon which said "dangerous building" stands by the city as provided in subsection (5) hereof;

(5) If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (4) hereof, within ten (10) days, the recorder shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided for in § 12-602, and shall with the assistance of the city attorney cause the costs of such repair, vacation, or demolition to be charged against the land on which the building existed as a municipal lien or cause such costs to be recovered in a suit at law against the owner; provided, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of this city, the recorder shall notify the city attorney to take legal action to force the owner to make all necessary repairs or demolish the building; and

(6) Report to the city attorney the names of all persons not complying with the order provided for in subsection (4) above. (1993 Code, § 12-605)

12-606. Duties of city attorney. The city attorney shall:

(1) Prosecute all persons failing to comply with the terms of the notices provided for herein in § 12-604(4) and (5) and the order provided for in § 12-605(4);

(2) Appear at all hearings before the recorder in regard to "dangerous buildings;"

(3) Bring suit to collect all municipal liens, assessments, or costs incurred by the recorder in repairing or causing to be vacated or demolished "dangerous buildings;" and

(4) Take such other legal action as is necessary to carry out the terms and provisions of this chapter. (1993 Code, § 12-607)

12-607. Emergency cases. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a "dangerous building" as defined herein is immediately repaired, vacated, or demolished, the building inspector shall report such facts to the recorder and the recorder shall cause the immediate repair, vacation, or demolition of such "dangerous building." The costs of such emergency repair, vacation, or demolition of such "dangerous building" shall be collected in the same manner as provided in § 12-605(5). (1993 Code, § 12-608)

12-608. Where owner absent from the city. In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the city, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the land records of the Register of Deeds of Franklin County to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the "dangerous building" to which it relates. Such mailing and posting shall be deemed adequate service. (1993 Code, § 12-609)

12-609. Administrative liability. No officer, agent, or employee of the City of Decherd shall render himself 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 his duties under this chapter. Any suit brought against any officer, agent, or employee of the City of Decherd as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the city attorney until the final determination of the proceedings therein. (1993 Code, § 12-610)

12-610. Duties of fire department. The employees of the fire department shall make a report in writing to the building inspector of all buildings or structures which are, may be, or are suspected to be "dangerous buildings" within the terms of this chapter. Such reports must be delivered to the building inspector within twenty-four (24) hours of the discovery of such buildings by any employee of the fire department. (1993 Code, § 12-611)

12-611. Duties of police department. All employees of the police department shall make a report in writing to the building inspector of any buildings or structures which are, may be, or are suspected to be "dangerous

buildings" within the terms of this chapter. Such reports must be delivered to the building inspector within twenty-four (24) hours of the discovery of such buildings by any employee of the police department. (1993 Code, § 12-612)

12-612. Supplemental remedy. The provisions in this chapter are supplemental to any others which may be available to the city for abating substandard, dangerous, or dilapidated buildings or structures. (1993 Code, § 12-613)

12-613. Violations and penalty. The owner of any "dangerous building" who shall fail to comply with any notice or order to repair, vacate, or demolish said building given by any person authorized by this chapter to give such notice or order shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined under the general penalty clause for this code of ordinances.

The occupant or lessee in possession who fails to comply with any notice to vacate and who fails to repair said building in accordance with any notice given as provided for in this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined under the general penalty clause for this code of ordinances.

Any person removing the notice provided for in § 12-604(8) shall be guilty of a misdemeanor and, upon conviction, shall be fined under the general penalty clause for this code of ordinances. (1993 Code, § 12-606)

CHAPTER 7**FAIR HOUSING CODE****SECTION**

- 12-701. Policy.
- 12-702. Definitions.
- 12-703. Unlawful practice.
- 12-704. Discrimination in the sale or rental of housing.
- 12-705. Discrimination in the financing of housing.
- 12-706. Discrimination in the provision of brokerage services.
- 12-707. Exemption.
- 12-708. Administration.
- 12-709. Education and conciliation.
- 12-710. Enforcement.
- 12-711. Investigations; subpoenas; giving of evidence.
- 12-712. Enforcement by private persons.

12-701. Policy. It is the policy of the City of Decherd to provide, within constitutional limitations, for fair housing throughout the city. (1993 Code, § 12-701)

12-702. Definitions. (1) "Discriminatory housing practice." An act that is unlawful under §§ 12-704, 12-705, or 12-706.

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

(3) "Family." Includes a single individual.

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

(5) "To rent." Includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (1993 Code, § 12-702)

12-703. Unlawful practice. Subject to the provisions of subsection (2) below and § 12-707, the prohibitions against discrimination in the sale or rental of housing set forth in § 12-704 shall apply to:

- (1) All dwellings except as exempted by subsection (2) below;
- (2) Nothing in § 12-704 shall apply to:

(a) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three (3) such single-family houses at any one (1) time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one (1) time; provided further, that the sale or rental of any single-family house shall be excepted from the application of this title only if such house is sold or rented:

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

(ii) Without the publication, posting, or mailing, after notice of any advertisement or written notice in violation of § 12-704(3) of this code, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

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

(3) For the purpose of subsection (2) above, a person shall be deemed to be in the business of selling or renting dwellings if:

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

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

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families. (1993 Code, § 12-703)

12-704. Discrimination in the sale or rental of housing. As made applicable by § 12-703 and except as exempted by §§ 12-703(2) and 12-707, it shall be unlawful:

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

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

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

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

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. (1993 Code, § 12-704)

12-705. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 12-703(2). (1993 Code, § 12-705)

12-706. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to, or membership or participation in, any multiple-listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such

access, membership, or participation, on account of race, color, religion, or national origin. (1993 Code, § 12-706)

12-707. Exemption. Nothing in this chapter shall prohibit 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 religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which, as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (1993 Code, § 12-707)

12-708. Administration. (1) The authority and responsibility for administering this act shall be in the Chief Executive Officer of the City of Decherd.

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

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the chief executive officer to further such purposes. (1993 Code, § 12-708)

12-709. Education and conciliation. Immediately after the enactment of this chapter, the chief executive officer shall commence such educational and conciliatory activities as will further the purposes of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (1993 Code, § 12-709)

12-710. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter

"person aggrieved"), may file a complaint with the chief executive officer. Complaints shall be in writing and shall contain such information and be in such form as the chief executive officer requires. Upon receipt of such a complaint, the chief executive officer shall furnish a copy of the same to the person or persons who allegedly committed or about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period of reference under subsection (3) below, the chief executive officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the chief executive officer decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the chief executive officer who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than fifty dollars (\$50.00) or imprisoned not more than one (1) year.

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

(3) If within thirty (30) days after a complaint is filed with the chief executive officer, the chief executive officer has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the secretary of the department of housing and urban development. The chief executive officer will assist in this filing.

(4) If the chief executive officer has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (30) days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as the rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

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

(6) Whenever an action filed by an individual shall come to trial, the chief executive officer shall immediately terminate all efforts to obtain voluntary compliance. (1993 Code, § 12-710, modified)

12-711. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation, the chief executive officer shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation; provided, however, that the chief executive officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The chief executive officer may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The chief executive officer may administer oaths.

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

(3) Witnesses summoned by subpoena of the chief executive officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States District Courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

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

(5) In case of contumacy or refusal to obey a subpoena, the chief executive officer or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the chief executive officer shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both. Any person who, with intent thereby to mislead the chief executive officer, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the chief executive officer pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than fifty dollars (\$50.00) or imprisoned not more than one (1) year, or both.

(7) The city attorney shall conduct all litigation in which the chief executive officer participates as a party or as amicus pursuant to this chapter. (1993 Code, § 12-711, modified)

12-712. Enforcement by private persons. (1) The rights granted by §§ 12-703 through 12-706 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred eighty (180) days after the alleged discriminatory housing practice occurred; provided, however, that the court shall continue such civil case brought pursuant to this section or § 12-710(4) from time to time before bringing it to trial or renting dwellings; or

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

(a) Participating, without discrimination on account or race, color, religion, or national origin, in any of the activities, services, organizations, or facilities described in subsection 15(a); or

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

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations, or facilities described in subsection 15(a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than fifty dollars (\$50.00), and if bodily injury results shall be fined not more than fifty dollars (\$50.00), and if death results shall be subject to imprisonment for any term of years or for life. (1993 Code, § 12-712, modified)

CHAPTER 8

EXISTING BUILDING CODE

12-801. Existing building code adopted.

12-802. Available in recorder's office.

12-803. Violations and penalty.

12-801. Existing building code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 through 6-54-506, and for the purpose of regulating existing buildings, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such structures are to have construction within them or to them, the *International Existing Building Code*,¹ 2018 edition with amendments that is what State of Tennessee adopted, is hereby adopted and incorporated as a part of this code and is hereinafter referred to as the existing building code. (Ord. #399, _____, as replaced by Ord. #435, July 2021 ***Ch2_04-09-24***)

12-802. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the existing building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public during regular business hours.

12-803. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the existing building code as herein adopted by reference and modified.

¹Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNK YARD.
4. JUNKED MOTOR VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

13-101. 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. (1993 Code, § 13-101, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1993 Code, § 13-102, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds

¹Municipal code references

Animal control: title 10.

Littering generally: title 11.

Littering streets, etc.: § 16-107.

Wastewater treatment: title 18, chapter 2.

on his property, and it shall be unlawful for any person to fail to comply with an order by the codes official to cut such vegetation when it has reached a height of over one foot (1'). (1993 Code, § 13-103, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section. This being the codes department of the city.

(3) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. If no valid last known address exists for the owner of record, the city may publish the notice in a newspaper of general circulation in the county for two (2) consecutive issues, or personally deliver notice to owner. The notice shall state that the owner of the property is entitled to a hearing, and shall at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Decherd Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice:

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost set by the statues for the City of Decherd: and notice, indicating the desire for a hearing.

(4) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communication, electricity,

gas liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards of cost set by the statues for the City of Decherd, and the costs thereof shall be assessed against the owner of the property. The City of Decherd may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The City of Decherd may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Franklin County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost set by the statues for the City of Decherd, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (4) above may seek judicial

review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the City of Decherd to proceed against an owner, tenant, or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (1993 Code, § 13-104, as replaced by Ord. #449, Feb. 2023 **Ch2_04-09-24**)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the recorder and dispose of such animal in such manner as the recorder shall direct. (1993 Code, § 13-105, as replaced by Ord. #449, Feb. 2023 **Ch2_04-09-24**)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1993 Code, § 13-106, as replaced by Ord. #449, Feb. 2023 **Ch2_04-09-24**)

13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (1993 Code, § 13-107, as replaced by Ord. #449, Feb. 2023 **Ch2_04-09-24**)

CHAPTER 2

SLUM CLEARANCE¹

SECTION

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

13-201. 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 of Decherd, structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the City of Decherd. (1993 Code, § 13-201, as replaced by Ord. #449, Feb. 2023 *Ch3_04-09-24*)

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

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

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

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the City of Decherd or state relating to health, fire, building regulations, or other activities concerning structures in the City of Decherd.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to *Tennessee Code Annotated*, § 13-21-101, *et seq.*

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #449, Feb. 2024 **Ch2_04-09-24**)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the City of Decherd, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (as added by Ord. #449, Feb. 2024 **Ch2_04-09-24**)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the City of Decherd 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. (as added by Ord. #449, Feb. 2024 **Ch2_04-09-24**)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof and order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the reasonable value), requiring the owner within the time specified in the order, to remove or demolish such structure. (as added by Ord. #449, Feb. 2024 *Ch2_04-09-24*)

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: *"This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."* (as added by Ord. #449, Feb. 2024 *Ch2_04-09-24*)

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #449, Feb. 2024 *Ch2_04-09-24*)

13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and the municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or

county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in *Tennessee Code Annotated*, §§ 67-5-2010 and 67-5-2410. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all or the owners of properties against whom said costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, the public officer 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 Franklin County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power or the City of Decherd to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #449, Feb. 2024 ***Ch2_04-09-24***)

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Decherd. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness. (as added by Ord. #449, Feb. 2024 ***Ch2_04-09-24***)

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city, or, in the absence of such newspaper, one (1) printed and published in the county and circulating in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such

complaint or order shall also be filed for record in the Register's Office of Franklin County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #449, Feb. 2024 *Ch2_04-09-24*)

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant at any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #449, Feb. 2024 *Ch2_04-09-24*)

13-212. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the City of Decherd in order to determine which structures therein are unfit for human occupation or use.

(2) To administer oaths, affirmations, examine witnesses and receive evidence.

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

(4) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #449, Feb. 2024 *Ch2_04-09-24*)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #449, Feb. 2024 *Ch2_04-09-24*)

13-214. Structures unfit for human habitation deemed unlawful.

It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the City of Decherd, structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the City of Decherd.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #449, Feb. 2024 *Ch2_04-09-24*)

CHAPTER 3

JUNKYARDS¹

SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Non-conforming junkyards.
- 13-308. Permits and fees.
- 13-309. Violations and penalty.
- 13-310. Deleted.

13-301. Definitions. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.

(3) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.

(4) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk

¹Municipal code reference

Refuse and trash disposal: title 17

State law reference

Tennessee Code Annotated, § 7-51-701

is not visible from the highways and streets of the City of Decherd. (Ord. #391, Oct. 2015, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (Ord. #391, Oct. 2015, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-303. Screening methods. The following methods and materials for screening are given for consideration only:

(1) Landscape planting. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.

(2) Earth grading. The construction of earth mounds which are graded, shaped, and planted to a natural appearance.

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood.

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (Ord. #391, Oct. 2015, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-304. Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the City of Decherd. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.

(1) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.

(2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.

(3) Screening shall be located on private property and not on any part of the highway right-of-way.

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (Ord. #391, Oct. 2015, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-305. Maintenance of screens. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the City of Decherd.

If not replaced within sixty (60) days, the City of Decherd may replace said screening and require payment upon demand. (Ord. #391, Oct. 2015, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (Ord. #391, Oct. 2015, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-307. Non-conforming junkyards. Those junkyards within the City of Decherd and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:

- (1) The junkyard must continue to be lawfully maintained.
- (2) There must be existing property rights in the junk or junkyard.
- (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason.

If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the City of Decherd.

(5) The junkyard may not be extended or enlarged. (Ord. #391, Oct. 2015, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-308. Permits and fees. It shall be unlawful for any junkyard located within the City of Decherd to operate without a "junkyard control permit" issued by the City of Decherd.

(1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The City of Decherd's fiscal year begins on July 1 and ends on June 30 the year next following.

(2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.

(3) All applications for an original or renewal permit shall be made on a form prescribed by the City of Decherd.

(4) Permits shall be issued only to those junkyards that are in compliance with these rules.

(5) A permit is valid only while held by the permittee and for the location for which it is issued. (Ord. #391, Oct. 2015, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-309. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #391, Oct. 2015, as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-310. Deleted. (Ord. #391, Oct. 2015, as deleted by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Violations and penalty.
- 13-406--13-414. Deleted.

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

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

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

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonable safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

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

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential or axle.

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

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own

power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(vii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(b) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same. (as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-402. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle. (as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-403. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the City of Decherd. (as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-404. Enforcement. Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building inspector is authorized to issue an ordinance summons for violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, the building inspector shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the City of Decherd judge to issue a summons or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, § 7-63-101 *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. (as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-405. Violations and penalty. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property, Each day the violation of this chapter continues shall be considered a separate violation. (as replaced by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

13-406.--13-414. Deleted. (as deleted by Ord. #449, Feb. 2023 *Ch2_04-09-24*)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. GENERAL PROVISIONS RELATING TO ZONING.
3. RESIDENCE DISTRICTS.
4. BUSINESS DISTRICTS.
5. INDUSTRIAL DISTRICTS.
6. FLOODPLAIN ZONING ORDINANCE.
7. EXCEPTIONS AND MODIFICATIONS.
8. ADMINISTRATION AND ENFORCEMENT.
9. AMENDMENT AND LEGAL STATUS.
10. MOBILE HOMES AND TRAILER PARKS.
11. SIGN REGULATIONS.
12. HISTORIC ZONING COMMISSION.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation.
- 14-102. Membership.
- 14-103. Organization, rules, staff, and finances.
- 14-104. Powers and duties.
- 14-105. Fee for submitting plat.

14-101. Creation. In order to guide and accomplish a coordinated and harmonious development of the municipality which will, in accordance with existing and future needs, best promote the public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, the Decherd Municipal Planning Commission, hereinafter referred to as "the planning commission," is hereby created and established as authorized by *Tennessee Code Annotated*, title 13, and said planning commission shall be organized and empowered as provided in this chapter. (1993 Code, § 14-101)

14-102. Membership. The planning commission shall consist of seven (7) members who shall be residents of Franklin County, Tennessee. One (1) of the members shall be the mayor of the City of Decherd, and one (1) of the members shall be an alderman of the City of Decherd selected by the city council. The remaining five (5) members shall be appointed by the mayor of the

City of Decherd. The terms of the members shall be for four (4) years, except that in the appointment of the first planning commission under the terms of this chapter, the first member shall be appointed for a term of one (1) year, the second member shall be appointed for a term of two (2) years the third member shall be appointed for a term of three (3) years, and the remaining two (2) appointed members shall be appointed for terms of four (4) years each. The membership of the mayor and alderman shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor who shall also have the authority to remove any appointive member at his pleasure. All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties. (1993 Code, § 14-102)

14-103. Organization, rules, staff, and finances. The planning commission shall elect its chairman and vice-chairman from among its members. The terms of the chairman and vice-chairman shall be for one (1) year with eligibility for reelection. The planning commission shall appoint a secretary who may be an officer or employee of the municipality. The planning commission shall make its own rules of procedure and determine its time of meeting. All meetings of the planning commission at which official action is taken shall be open to the public and all records of the planning commission shall be public records.

The Decherd Municipal Regional Planning Commission will meet a minimum of six (6) times per year.

The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with the state planning agency and city planners and other consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council. (1993 Code, § 14-103, as amended by Ord. #382, June 2014)

14-104. Powers and duties. From and after the time when the planning commission shall have organized, selected its officers, and shall have adopted its rules of procedure, then said planning commission shall have all the powers, duties, and responsibilities set forth in *Tennessee Code Annotated*, title 13. (1993 Code, § 14-104)

14-105. Fee for submitting plat. To recover the costs of the city in reviewing plats submitted for approval, the planning commission is directed to charge each developer submitting a plat for approval a fee equivalent to the fee charged the city by the city engineer for reviewing the developer's plat. Fees charged must be transmitted to the city administrator to become part of the general fund. (Ord. #358, July 2011)

CHAPTER 2

GENERAL PROVISIONS RELATING TO ZONING

SECTION

- 14-201. Authority and purpose.
- 14-202. Short title.
- 14-203. Definitions.
- 14-204. Establishment of districts.
- 14-205. Application of regulations.
- 14-206. Continuance and discontinuance of nonconforming uses.
- 14-207. Off-street automobile parking.
- 14-208. Off-street loading and unloading space.
- 14-209. Area, yard, and height requirements.
- 14-210. Deleted.
- 14-211. Buffer strips.

14-201. Authority and purpose. In pursuance of authority conferred by the *Tennessee Code Annotated*, title 13, chapter 7, and for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare; to lessen congestion in the streets; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods; to protect property against blight and depreciation; to conserve the value of buildings; and to encourage the most appropriate use of land and buildings and other structures throughout the municipality, all in accordance with the comprehensive plan, the city council does ordain and enact into law the following provisions in this title. (1993 Code, § 14-201)

14-202. Short title. Chapters 2 through 7 in this title shall be known and may be cited as "The Zoning Ordinance of the City of Decherd, Tennessee." (1993 Code, § 14-202)

14-203. Definitions. The purpose of this section is to clarify the meaning of certain words as they are used in this title. Except as specifically defined herein, all words used in this title have their customary dictionary definitions. For the purposes of this title, certain words or terms are to be interpreted or defined as follows.

1. Words used in the present tense include the future tense.
2. Words used in the singular include the plural, and words used in the plural include the singular.

3. The word "shall" is always mandatory.
4. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
5. The word "lot" includes the words "plot" or "parcel."
6. The word "building" includes the word "structure."
7. The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."
8. The word "map" or "zoning map" means the "Zoning Map of Decherd, Tennessee."
9. "Accessory use or building." A use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.
10. "Advertising sign." A sign which directs attention to a business commodity, service, or entertainment conducted, sold, or offered elsewhere than on the premises or only incidentally on the premises if at all.
11. "Apartment." A building and accessories thereto principally used, designed, or adapted for use as dwelling units having occupancy by three (3) or more households each of which has separate independent living quarters.
12. "Apartment, garage." A dwelling unit located above a detached garage for use as a separate independent living quarter. The detached garage and the garage apartment are accessories to the principal residential structure on the zone lot and shall be located in the rear yard. A garage apartment is limited in gross floor area to seven hundred fifty (750) square feet and shall be in compliance with the lot density standard (square feet per family) for the zoning district. All exterior entrance way or exterior balcony or overhang area shall be in compliance with all minimum yard setback requirements.
13. "Billboard." A type of advertising sign having more than one hundred (100) square feet of display surface and not exceeding fifty feet (50') in length which is either erected on the ground or attached to or supported by a building or structure.
14. "Boarding or rooming house." Any dwelling in which three (3) or more persons, either individually or as families, are housed for hire with or without meals.
15. "Buffer strip, planted." A strip of land along a property line eight feet (8') in width reserved for screening purposes from adjoining properties or public rights-of-way and planted with trees and/or shrubs in such a manner as to provide such screening.
16. "Building." Any structure attached to the ground and intended for shelter, housing, or enclosure of persons, animals, or chattels.
17. "Business sign." An attached or free-standing structure on which is announced the business use of the premises and/or the name of the operator of the business.

18. "Dwelling." A building designed or used for permanent living quarters for one (1) or more families.
19. "Dwelling unit." A dwelling or portion thereof providing permanent living quarters for one (1) family.
20. "Family." One (1) or more persons occupying a dwelling unit and living as a single housekeeping unit.
21. "Front yard." An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and located between the street line and the front line of the building projected to the side lines of the lot.
22. "Household." All persons who occupy a dwelling unit as a resident.
23. "Lot." A parcel of land occupied or capable of being occupied by one (1) or more buildings and the accessory buildings or uses customarily incidental to it, including such open spaces as are required in this title.
24. "Lot width." The distance between the side boundaries of the lot measured at the front building line.
25. "Masonry." A form of construction composed of stone, brick, concrete, gypsum, hollow clay tile, concrete block or tile, or other similar building units or materials or a combination of these materials laid up unit by unit and set in mortar.
26. "Mobile home (trailer)." A structure, transportable in one (1) or more sections, which is built on a permanent chassis, designed to be used with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems contained therein. Recreational vehicles and travel trailers are not included in this definition of mobile home.
27. "Nonconforming use." A building, structure, or use of land existing at the time of enactment of the provisions in this chapter, and which does not conform to the regulations of the district in which it is located.
28. "Nursing home." Any building in which aged, chronically ill, or incurable persons are housed and furnished with meals and nursing care for compensation.
29. "Outdoor advertising sign." An attached or free-standing structure conveying some information, knowledge, or idea to the public.
30. "Side yard." An open, unoccupied space on the same lot with a principal building located between the side of the buildings and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.
31. "Structure." Anything constructed or erected on the ground or attached to something located on the ground.
32. "Trailer park." A lot, portion, or parcel of land designed for, or which is intended to be used for, the accommodation of two (2) or more residential mobile homes or trailers.

33. "Travel trailer." A vehicular, portable structure built on a chassis, or a pick-up camper, or a tent-trailer, or a similar device designed to be used as a temporary dwelling for travel and recreational purposes.

34. "Travel trailer park." Any plot of ground upon which two (2) or more travel trailers, occupied for camping or periods of short stay, are located.

35. "Upper story residential." That area of a building above the ground floor which is principally used, designed, or adapted as a dwelling unit(s) for the occupancy and use by one (1) or more households, each household of which has separate living quarters.

36. "Zone lot." A lot or parcel with a zoning district classification. (1993 Code, § 14-203)

14-204. Establishment of districts. (1) This section is established to provide districts for the various uses of land within the city and to provide boundaries for the designated districts.

For the purposes of this title, the City of Decherd, Tennessee, is hereby divided into eleven (11) districts, designated as follows:

- R-1 Low density residential district
- R-2 Medium density residential district
- R-3 High density residential district
- R-1A Low density residential district
- R-3A High density residential district
- C-1 Central business district
- C-2 Highway service business district
- C-3 Restrictive business/highway service district
- I-1 Light industrial district
- I-2 Heavy industrial district

(2) The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the City of Decherd, Tennessee," dated June, 1967, and certified by the city recorder.¹ Said map is hereby made a part of this title and shall be on file in the office of the city recorder.

(3) Unless otherwise indicated, the district boundary lines are centerlines of streets or blocks or such lines extended, lot lines, corporate limit lines, or the centerline of the main tracks of a railroad. Such lines drawn as to appear on these lines are hereby located on these lines. Where district boundary lines approximately parallel street or other rights-of-way, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such

¹The zoning map (and all amending ordinances) are of record in the recorder's office.

dimension shall be determined by use of the scale on said zoning map. (1993 Code, § 14-204)

14-205. Application of regulations. This section is established to provide the conditions that must be met by anyone under the jurisdiction of this title.

Except as hereinafter provided:

(1) Use. No building or structure shall hereafter be erected and no existing building or structure or part thereof shall be reconstructed, moved, or altered, nor shall any land, structure, or building be used except in conformity with the regulations herein specified for the district in which it is located.

(2) Height and density. No building or structure shall hereafter be erected, constructed, reconstructed, or altered to:

(a) Exceed the height limits;

(b) House a greater number of families or occupy a smaller lot area per family than provided for in this title; or

(c) Have narrower or smaller front or side yards than are herein required.

(3) Lot area and reduction of lot size. No lot, even though it may consist of one (1) or more adjacent lots in the same ownership at the time of passage of the provisions in this chapter, shall be reduced in size so that lot width or size of yards or lot area per family or any other requirement of this title is not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

(4) Yards. No part of a yard or other open space or the off-street parking or loading space required about any building for the purpose of complying with the provisions of this title shall be included as a part of the yard or off-street parking or loading space required for another building.

(5) One principal building on a lot. Only one (1) principal building and its customary accessory buildings may hereafter be erected on any one (1) lot.

(6) Public street frontage. No building shall be erected on a lot which does not abut for at least fifty feet (50') on a public street, except in an accepted cul-de-sac that has been approved by the City of Decherd Municipal Regional Planning Commission. In this event, the fifty feet (50') width will be measured at the zoning setback line and must meet the width requirements for the zoning district. C-1 zoned districts are exempt.

(7) Double wide manufactured (mobile) homes located in any residential zoned district shall have a continuous masonry underpinning. (1993 Code, § 14-205, as amended by Ord. #386, April 2015)

14-206. Continuance and discontinuance of nonconforming uses. The intent of this section is to serve the public interest by discouraging nonconforming uses without placing an unnecessary hardship on the individual landowner.

The lawful use of any building or structure or land existing at the time of the enactment of the provisions in this title may be continued even though such use does not conform with the provisions of this title, except that the nonconforming structure or use shall not be:

- (1) Changed to another nonconforming use;
- (2) Reestablished after discontinuance for one (1) year;
- (3) Extended or enlarged, except in conformity with this title; or
- (4) Rebuilt, altered, or repaired after damage exceeding fifty percent (50%) of its replacement cost at the time of destruction, except in conformity with this title. The value shall be computed from the amount the structure is assessed for tax purposes. (1993 Code, § 14-206)

14-207. Off-street automobile parking. Off-street automobile parking space shall be provided on every lot on which any of the following uses are hereafter established. The number of automobile parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall be at least two hundred (200) square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into a major or secondary thoroughfare, except residential property.

- (1) Automobile sales and repair garages. One (1) space for each regular employee plus one (1) space for each three hundred (300) square feet of floor area used for repair work.
- (2) Gasoline filling stations. Three (3) spaces for each grease rack or similar facility plus one (1) space for each attendant.
- (3) Hospitals and nursing homes. One (1) space for each three (3) employees and one (1) space for each doctor, plus one (1) space for each four (4) beds.
- (4) Industrial. One (1) space for each two (2) employees on a single shift plus one (1) space for each company vehicle operating from the premises.
- (5) Lodges and clubs. One (1) space for each three (3) members.
- (6) Offices. One (1) space for each four hundred (400) square feet of floor space, except in the C-1 central business district.
- (7) Places of amusement or assembly without fixed seats. One (1) space for each three hundred (300) square feet of floor space devoted to patron use.
- (8) Places of public assembly. One (1) space for each four (4) seats in the main assembly room.
- (9) Residential. Two (2) spaces for each dwelling unit.
- (10) Restaurants. One (1) space for each four (4) seats provided for patron use, plus one (1) space for each two (2) employees, except in the C-1 central business district.
- (11) Retail business. One (1) space for each two hundred (200) square feet of sales space, except in the C-1 central business district.

(12) Rooming and boarding houses. One (1) space for each two (2) bedrooms.

(13) Schools. One (1) space for each five (5) students.

(14) Tourist courts and motels. One (1) space for each accommodation.

(15) Trailer parks. Two (2) spaces for each mobile home space.

(16) Wholesale business. Two (2) spaces for each employee.

(17) Upper story residential dwelling. One and one-half (1 1/2) spaces for each dwelling unit. A certified statement is required to demonstrate a legally binding agreement for parking reserved exclusively for the upper story residential use.

(18) Location on other property. If the required automobile parking spaces cannot reasonably be provided on the same lot on which the principal use is conducted, such spaces may be provided on other off-street property provided such property lies within four hundred feet (400') of the main entrance to such principal use. Such automobile parking space shall be associated with the principal use and shall not hereafter be reduced or encroached upon in any manner.

(19) Extension of parking space into a residential district. Required parking space may be extended one hundred feet (100') into a residential zoning district, provided that:

(a) The parking space adjoins a commercial or industrial district;

(b) Has its only access to or fronts upon the same street as the property in the commercial or industrial district for which it provides the required parking spaces; and

(c) Is separated from abutting properties in the residential district by a ten foot (10') wide evergreen planted buffer strip. (1993 Code, § 14-207)

14-208. Off-street loading and unloading space. On every lot on which business, trade, or industry use is hereafter established, space with access to a public street or alley shall be provided, as indicated below, for loading and unloading of vehicles off the public street or alley.

(1) Retail business. One (1) space of at least ten feet by thirty five feet (10' x 35') for each three thousand (3,000) square feet of floor area or part thereof, excluding the C-1 central business district.

(2) Wholesale and industrial. One (1) space of at least ten feet (10') by fifty feet (50') for each ten thousand (10,000) square feet of floor area or part thereof.

(3) Bus and truck terminals. One (1) space to accommodate each bus or truck that will be stored and loading or unloading at the terminal at any one (1) time. (1993 Code, § 14-208)

14-209 Area, yard and height requirements. This section is established to show the minimum size, width, and height requirements for the land uses within each designated district. The provisions of this section do not apply within an approved mobile home park.

District	Minimum Lot Size			Minimum Front Yard Setback from Right-of-way of street		Minimum Side Yards in Feet	Maximum Height in Feet
	Area in Sq. Feet	Square Feet per Family	Lot Width in Feet	Major Streets	All Other Streets		
R-1	10,000	10,000	100	35	35	10 with a total of 25	35
R-2	7,500	One family 7,500	75	35	35	10	35
		Two family 4,000	75				
R-3	5,000	One family 5,000	50				
R-3A	8,000	Two family 4,000	75	35	35	10	50
		Multi-family 3,000	90				
R-1A	15,000	15,000	100	35	35	12 with a total of 30	35
C-1						None. 10 feet if provided	50
C-2				35	35	None. 10 feet if provided	40
I-1				35	35	20	50
I-2				40	35	20	50

14-210. Deleted. (1993 Code, § 14-210, as deleted by Ord. #437, Nov. 2021 *Ch2_04-09-24*)

14-211. Buffer strips. A planted buffer strip as defined in § 14-203(15) of this code is required when a commercial (C-1, C-2, C-3) or industrial (I-1, I-2) zoned activity abuts residential (R-1, R-2, R-3, R-1A, R-3A) zoned property. The buffer strip shall be within and along the property boundary of the commercial or industrial zoned activity. To achieve proper screening, the vegetative planted buffer may also include fencing and/or the use of earth sculpting or berms, subject to the approval of the planning commission. (1993 Code, 14-211)

CHAPTER 3

RESIDENCE DISTRICTS

SECTION

14-301. General.

14-302. R-1 low density residential district.

14-303. R-2 medium density residential district.

14-304. R-3 high density residential district.

14-305. R-1A low density residential district.

14-306. R-3A high density residential district.

14-301. General. It is the intent of this title that residential districts be reserved predominately for residence, and contain public and semi-public land uses which are necessary to serve the residents; to protect residents, as far as possible, against congestion and through traffic; to promote the stability and character of residential development; and to promote the most desirable use of land in accordance with Decherd's comprehensive plan. (1993 Code, § 14-301)

14-302. R-1 low density residential district. It is the intent of the R-1 residential district to provide a suitable open character of development for single-family detached dwellings at low densities.

Within the R-1 residential district of the City of Decherd, Tennessee, the following uses are permitted:

- (1) One (1) family dwellings, except trailers and mobile homes;
- (2) Agriculture, except the commercial raising of livestock;
- (3) Churches, provided that:
 - (a) There is a planted buffer strip at least ten feet (10') wide along the property line, except the front; and
 - (b) The buildings are located not less than fifty feet (50') from any property line.
- (4) Customary accessory buildings, including private garages and non-commercial workshops, provided they are located in the rear yard and not closer than five feet (5') to any lot line;
- (5) Customary incidental home occupations including the professional office of an architect, artist, dentist, engineer, lawyer, physician and the like, barber, beauty, and tailor shops, or the accommodation of not more than two (2) boarders and that the operations are conducted within a dwelling by not more than one (1) person in addition to those persons resident therein;
- (6) Hospitals;
- (7) Municipal, county, state, or federal buildings or land uses;
- (8) Nursery schools, day care centers, or kindergartens provided that there are at least one hundred (100) square feet of outdoor play area for each child and the play area is enclosed by a fence at least five feet (5') high that will

contain children. Play area is not required for children one (1) year old or younger;

- (9) Public and semi-public recreational facilities and grounds;
- (10) Schools offering general education courses; and
- (11) Substations, such as electric, telephone, or gas, if essential for service to the zoning district in which it is proposed they be located, provided that:

- (a) The structures are placed not less than fifty feet (50') from any property line;

- (b) The structures are enclosed by a woven-wire fence at least eight feet (8') high;

- (c) No vehicles or equipment are stored on the premises; and

- (d) The lot is suitably landscaped, including a planted buffer strip at least ten feet (10') wide along the side and rear property lines.

(1993 Code, § 14-302, as amended by Ord. #437, Nov. 2021 *Ch2_04-09-24*)

14-303. R-2 medium density residential district. It is the intent of the R-2 residential district to provide for a less restricted type of residential development at higher densities than, but under similar environmental conditions as in the R-1 district and to better facilitate convenience, economy, and the use of urban facilities.

Within the R-2 residential district of the City of Decherd, Tennessee, the following uses are permitted:

- (1) Any use permitted in the R-1 residential district;
- (2) Two (2) family dwellings;
- (3) Nursing homes;
- (4) Cemeteries; and
- (5) Garage apartment. Only one (1) garage apartment shall be permitted per zone lot and shall be in compliance with the minimum yard standards for a principal structure. All garage apartments shall have separate municipal water and sewer taps. (1993 Code, § 14-303)

14-304. R-3 high density residential district. This section provides for residences at high densities, including multi-family dwellings, mobile homes, and other general types of residential development. However, it is the intent of this title that the R-3 district contain sound development and be a desirable place in which to live.

Within the R-3 residential district of Decherd, Tennessee, the following uses shall be permitted:

- (1) Any use permitted in the R-2 residential district;
- (2) Multi-family dwellings;
- (3) Boarding and rooming houses;

(4) Mobile homes, subject to the requirements of § 14-209 and as provided by § 14-1002(2), Decherd Municipal Code, as amended; and

(5) Trailer parks, not including the sale or services to mobile homes, provided the requirements of title 14, chapter 10 in its entirety, and § 14-207(15) of the Decherd Municipal Code are met. (1993 Code, § 14-304)

14-305. R-1A low density residential district. It is the intent of the R-1A residential district to provide a suitable open character of development primarily for single-family detached dwellings at low densities.

Within the R-1A residential district of the City of Decherd, Tennessee, the following uses are permitted:

- (1) One (1) family dwellings, except trailers and mobile homes;
- (2) Customary accessory buildings, including private garages and non-commercial workshops, provided they are located in the rear yard and not closer than ten feet (10') to any lot line;
- (3) Municipal, county, state, or federal land uses that are designed to be compatible with low density single-family residential development; and
- (4) Substations, such as electric, telephone, or gas, if essential for service to the zoning district in which it is proposed they be located, provided that:

- (a) The structures are placed not less than fifty feet (50') from any property line;
- (b) The structures are enclosed by a woven-wire fence at least eight feet (8") high;
- (c) No vehicles or equipment are stored on the premises; and
- (d) The lot is suitably landscaped, including a planted buffer strip at least ten feet (10') wide along the side and rear property lines. (1993 Code, 14-305)

14-306. R-3A high density residential district. This section is to provide for residences at high densities, including multi-family dwelling and other general types of residential development, but excluding single-wide mobile homes and mobile home parks. It is the intent of this section that the R-3A district contain sound development that provides a desirable place in which to live.

Within the R-3A residential district of Decherd, Tennessee, the following uses shall be permitted:

- (1) Any use permitted in the R-3 residential district;
- (2) Multi-family dwellings; and
- (3) Boarding and rooming houses. (1993 Code, 14-306)

CHAPTER 4

BUSINESS DISTRICTS

SECTION

14-401. General.

14-402. C-1 central business district.

14-403. C-2 highway service business district.

14-404. C-3 restrictive business/highway service district

14-401. General. Business districts are established to provide locations for convenient exchange of goods and services in a reasonable and orderly manner, to protect the character and established pattern of desirable commercial development, to conserve the value of property, and to exclude those uses that are incompatible with designated uses for the districts. (1993 Code, § 14-401)

14-402. C-1 central business district. The C-1 zone is established to protect present business and commercial uses; encourage the eventual elimination of uses inappropriate to the function of the central business area; and encourage intensive development of this zone as the shopping and business center of the City of Decherd and its surrounding trade area.

(1) The following uses are permitted in the C-1 central business district of Decherd, Tennessee:

- (a) Any retail business or service including those making products sold at retail on the premises, providing such manufacturing is incidental to the retail business or service and occupies less than forty percent (40%) of the floor area and employs not more than five (5) operators.
- (b) Banks and offices.
- (c) Clubs and lodges.
- (d) Insurance agencies.
- (e) Light industries.
- (f) Motels.
- (g) Newspaper and printing plants.
- (h) Professional offices for doctors, lawyers, dentists, architects, artists, engineers, and the like.
- (i) Public uses and structures.
- (j) Public utility structures.
- (k) Radio and television stations.
- (l) Restaurants, bars, grills and similar eating and/or drinking establishments, excluding drive-ins.
- (m) Theaters, indoor.

- (n) Service stations and repair garages (may be licensed separately).
- (o) Drug stores.
- (2) Uses permitted as a special exception. The following uses are permitted as a special exception after review and approval by the Decherd Board of Zoning Appeals.
 - (a) Upper story residential.
 - (i) The minimum floor area for an upper story residential dwelling unit shall be five hundred (500) square feet.
 - (ii) All proposals and plans for upper story residential use shall be in compliance with all applicable codes.
- (3) The following shall not be permitted in the C-1 Central Business District. There shall not be permitted any type of adult entertainment allowed including:
 - (a) Adult movie theaters.
 - (b) Adult book stores.
 - (c) Adult dance clubs.
 - (d) Tattoo parlors.
 - (e) Piercing parlors.
 - (f) Signing pertaining to any of the above businesses. (1993 Code, § 14-402, as replaced by Ord. #411, Oct. 2018 **Ch1_6-19-19**, as amended by Ord. #437, Nov. 2001 **Ch2_04-09-24**)

14-403. C-2 highway service business district. The C-2 zone is established to provide an area for uses that are primarily oriented toward conveniently serving the needs of highway traffic.

The following uses are permitted in the C-2 highway service business district:

- (1) Any retail business or service directly related to serving the needs of highway traffic;
- (2) Automobile parts stores;
- (3) Bowling alleys;
- (4) Bus terminals;
- (5) Drug stores;
- (6) Gasoline service stations;
- (7) Hobby, antique, and souvenir shops;
- (8) Nursery schools, day care centers, or kindergartens;
- (9) Motels;
- (10) Public uses and structures;
- (11) Repair garages and automobile sales rooms;
- (12) Signs:
 - (a) Business; and
 - (b) Outdoor advertising including billboards.
- (13) Theaters;

- (14) Trailer sales;
- (15) Used car lots; and
- (16) Any use permitted in the C-1 business district. (1993 Code, § 14-403)

14-404. C-3 restrictive business/highway service district. The C-3 zone is established to provide an area for uses that are restrictive in that the business is not a heavily congested type of business.

The following uses are permitted in the C-3 zone, no other uses will be permitted:

- (1) Wood working shops (i.e. cabinet shops);
- (2) Automobile body shops (provided no wrecked cars are left outside of the building); and
- (3) Glass and mirror shop. (1993 Code, § 14-404)

CHAPTER 5

INDUSTRIAL DISTRICTS

SECTION

14-501. General.

14-502. I-1 light industrial district.

14-503. I-2 heavy industrial district.

14-501. General. Industrial districts are established to provide areas to meet the needs of the city's present and future manufacturing uses with due allowance for the need for a choice of sites, including transportation systems, and to protect adjacent residential and commercial uses and also the industries within the districts. (1993 Code, § 14-501)

14-502. I-1 light industrial district. The I-1 zone is established to provide an area for firms engaged in light manufacturing and distribution of goods, to discourage uses incompatible to light manufacturing, and to protect the surrounding higher land uses and also to protect the industries in the district.

The following uses are permitted in the I-1 light industrial district of Decherd, Tennessee:

(1) Light industries, provided that any industry that may cause injurious or obnoxious noise, vibrations, smoke, gas fumes, odor, dust, fire hazard, or other objectionable conditions, shall be required to show that the proposed location, construction, and operation will not injure present or prospective industrial development in the district;

(2) Agricultural equipment sales and repair;

(3) Baking establishments;

(4) Bottling and distribution plants;

(5) Public utility structures;

(6) Truck terminals; and

(7) Wholesale and storage business including building material yards.

(1993 Code, § 14-502, as amended by Ord. #437, *Ch2_04-09-24*)

14-503. I-2 heavy industrial district. The I-2 zone is established to provide a suitable centralized area for heavy manufacturing plants with due consideration for choice of sites including transportation systems, to protect the surrounding higher land uses, to protect the industries located in the district, and to discourage uses incompatible with those uses designated for this district.

The following uses are permitted in the I-2 heavy industrial district of Decherd, Tennessee: Industries, provided that any industry that may cause injurious or obnoxious noise, vibration, smoke, gas fumes, odor, dust, fire hazard, or other objectionable conditions, shall be required to show that such

noise will not adversely affect the surrounding districts. (1993 Code, § 14-503, as amended by Ord. #437, Nov. 2001 ***Ch2_04-09-24***)

CHAPTER 6

FLOODPLAIN ZONING ORDINANCE

SECTION

- 14-601. Statutory authorization, findings of fact, statement of purpose, and objectives.
- 14-602. Definitions.
- 14-603. General provisions.
- 14-604. Administration.
- 14-605. Provisions for flood hazard reduction.
- 14-606. Variance procedures.
- 14-607. Legal status provisions.

14-601. Statutory authorization, findings of fact, statement of purpose, and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in §§ 13-7-201 to 13-7-210, *Tennessee Code Annotated*, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Decherd, Tennessee, Mayor and Board of Aldermen, do ordain as follows:

(2) Findings of fact. (a) The City of Decherd, Tennessee, Board of Mayor and Aldermen wishes to establish eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the City of Decherd, 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, flood proofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging, and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) 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 flood prone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas to minimize blight in flood areas;

(g) To ensure that potential home buyers are notified that property is in a flood prone area; and

(h) To establish eligibility for participation in the NFIP. (Ord. #375, Dec. 2013)

14-602. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' to 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." 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 one hundred (100) year flood or the one percent (1%) annual chance flood.

(8) "Basement." Any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building." See "structure."

(10) "Development." 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." 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." The program as implemented on an emergency basis in accordance with § 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." The process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(14) "Exception." 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." 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." 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 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 "flood prone 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 work 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 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 streets, final site grading, or the pouring of concrete pads) is completed before 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 Decherd, 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." 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." 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." A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(42) "Map." The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level." 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)." As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(45) "New construction." 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." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this 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, AH, Al-30, AE or A99.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, Al-30, AE, 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, 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." 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." 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:

(i) 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;

(ii) Any alteration of a "historic structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(61) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" is a grant of relief from the requirements of this ordinance.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #375, Dec. 2013)

14-603. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Decherd, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Decherd, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) 470054, panels 0065, 0151, 0152, 0153, 0154, 0160, dated August 4, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this 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 Decherd, 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 ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Decherd, Tennessee

from taking such other lawful actions to prevent or remedy any violation. (Ord. #375, Dec. 2013)

16-604. Administration. (1) Designation of ordinance administrator. The building official hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood proofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-605(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 U.S.C. 1334.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is 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 § 14-604(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 § 14-604(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 § 14-604(2).

(i) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Decherd, Tennessee FIRM meet the requirements of this ordinance.

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #375, Dec. 2013)

14-605. 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 § 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-605(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 § 14-605(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 § 14-602. 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 § 14-602). 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 § 14-604(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 § 14-605(2).

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined § 14-602).

(iii) Any manufactured home; which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-605(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) 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

(vi) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones, require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such, proposals base flood elevation data. (See § 14-605(5).)

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-603(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 Decherd, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions § 14-605(1) and (2).

(4) 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 § 14-603(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 § 14-605(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-603(2); where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-605(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 § 14-602). All applicable data including elevations or

floodproofing certifications shall be recorded as set forth in § 14-604(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-605(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 Decherd, 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 § 14-605(1) and (2). Within approximate A Zones, require that those subsections of § 14-605(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.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-603(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 § 14-605(1) and (2), apply:

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-605(2).

(b) All new construction and substantial improvements of non-residential buildings may be flood proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood proofed 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 flood proofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-604(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-603(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 §§ 14-604 and 14-605.

(8) Standards for unmapped streams. Located within the City of Decherd, 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 §§ 14-604 and 14-605. (Ord. #375, Dec. 2013)

14-606. Variance procedures. (1) Municipal Board of Zoning Appeals.

(a) Authority. The City of Decherd, 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 ordinance. 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, the fee 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 thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The 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 ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Decherd, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this 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) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(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 for one hundred dollars (\$25.00 for \$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. #375, Dec. 2013)

14-607. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Decherd, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

(3) Effective date. This chapter shall become effective immediately after its passage, in accordance with the Charter of the City of Decherd, Tennessee, and the public welfare demanding it. (Ord. #375, Dec. 2013)

CHAPTER 7

EXCEPTIONS AND MODIFICATIONS

SECTION

- 14-701. General.
- 14-702. Existing lots.
- 14-703. Front yard setbacks of dwellings.
- 14-704. Height limits.
- 14-705. Corner lots.
- 14-706. Vision clearance.
- 14-707. Group housing projects.
- 14-708. Planned shopping centers.

14-701. General. This chapter is established to provide relief from unnecessary hardships that may occur from the application of the provisions in this title to a specific piece of property. Further, it is intended to provide for the establishment of group project developments that could not reasonably adhere to the provisions of this title. (1993 Code, § 14-701)

14-702. Existing lots. Where the owner of a plot of land consisting of one (1) or more adjacent lots at the time of the enactment of the provisions in this chapter did not at that time own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this title, or if the topography, physical shape, or other unique features of such lots of record prevent reasonable compliance with the setback or other requirements of this title, such plot of land may nevertheless be used as a building site. The yard and other requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit reasonable use of the property as a building site. However, in no case shall the building inspector permit any lot in a residential district to be used as a building site when such lot is less than four thousand (4,000) square feet in total area and thirty feet (30') in width, or has a front yard setback of less than fifteen feet (15') and a side yard setback of less than three feet (3'). (1993 Code, § 14-702)

14-703. Front yard setbacks of dwellings. The front yard setback requirement of this title for dwellings shall not apply on any lot where the average setback of existing buildings located wholly or in part within one hundred feet (100') on each side of such lot within the same block and zoning district and fronting on the same side of the street is more or less than the minimum required setback. In those cases, where the average setback is less than the minimum required setback, the setback on such lot may be less than the required setback, but no less than the average of the setbacks of the aforementioned existing buildings. In those cases where the average setback is

more than the minimum required setback, the setbacks on such lots shall not be more or less than the average setbacks of the aforementioned existing buildings, except as herein provided. In all cases this setback shall be so located to ensure that the back of any structure erected or moved on said lot will be no further forward than the center of the nearest adjacent existing building. (1993 Code, § 14-703)

14-704. Height limits. The height limitations of this title shall not apply to belfries, church spires, cupolas, domes, and similar structures not intended for human occupancy, nor to chimneys, derricks, flag poles, monuments, radio or television towers or aerials, smoke stacks, transmission towers, water towers, and similar structures. (1993 Code, § 14-704)

14-705. Corner lots. The side yard setback requirements for corner lots shall be the same as the front setback requirements for the next adjacent lot fronting on the street that the side yard of the corner lot faces. (1993 Code, § 14-705)

14-706. Vision clearance. In all use districts, except the C-1 central business district, no fence, wall, shrubbery, or other obstruction to vision between the heights of three feet (3') and fifteen feet (15') above the finished grade of streets shall be erected, permitted, or maintained within twenty feet (20') of the intersection of the rights-of-way lines of streets or railroads. (1993 Code, § 14-706)

14-707. Group housing projects. A group housing project of two (2) or more buildings to be constructed on a plot of land of at least two (2) acres not subdivided into customary streets and lots, and which will not be so subdivided, may be constructed provided:

- (1) Uses are limited to those permitted within the district in which the project is located;
- (2) Building heights do not exceed the height limits permitted in the district in which the project is located;
- (3) The overall intensity of land use is no higher and the standard of open space is no lower than that permitted in the district in which the project is located; and
- (4) The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located. (1993 Code, § 14-707)

14-708. Planned shopping centers. A planned shopping center consisting of one (1) or more buildings to be constructed on a plot of land containing at least two (2) acres, not subdivided into customary streets and lots and which will not be so divided, may be constructed, provided:

(1) It is located at the intersection of a major thoroughfare and the uses permitted are the same as in the C-1 and C-2 districts;

(2) Off-street automobile parking space requirements for the proposed uses are provided on the lot; and

(3) Where the project abuts a residential district, there shall be a ten (10) foot planted evergreen strip along the rear and side lot lines adjacent to the residential district. (1993 Code, § 14-708)

CHAPTER 8

ADMINISTRATION AND ENFORCEMENT

SECTION

- 14-801. General.
- 14-802. Zoning enforcement officer.
- 14-803. Building permit required.
- 14-804. Application for building permit.
- 14-805. Construction progress.
- 14-806. Certificate of occupancy required.
- 14-807. Remedies.
- 14-808. Board of zoning appeals.
- 14-809. Variances.
- 14-810. Violations and penalty.

14-801. General. The intent of this chapter is to provide for suitable and proper administration and enforcement of the provisions of this title; to designate the enforcing officer and to outline the proper steps to be taken by parties interested in constructing, erecting, or modifying a structure or other land use; to include a means whereby appeals can be made; and to set forth the penalties for violating the provisions of this title. (1993 Code, § 14-801)

14-802. Zoning enforcement officer. It shall be the duty of the building inspector and he is hereby given the authority to administer and enforce the zoning provisions of this title. (1993 Code, § 14-802)

14-803. Building permit required. No building or other structure shall be located, erected, moved, or added to or structurally altered (with a cost exceeding two hundred dollars (\$200.00)), nor any development be commenced without a building permit issued by the building inspector. No building permit shall be issued except in conformity with the provisions of this title. (1993 Code, § 14-803)

14-804. Application for building permit. All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing:

- (1) The actual dimensions of the lot to be built upon;
- (2) The size of the building or structure to be erected;
- (3) The location of the building or structure on the lot;
- (4) The location of existing structures on the lot, if any;
- (5) The number of dwelling units the building, if residential, is to accommodate;
- (6) The setback lines of buildings on adjoining lots;
- (7) The layout of off-street parking and loading spaces; and

(8) Such other information as may be necessary to provide for the proper enforcement of the zoning provisions of this title. (1993 Code, § 14-804)

14-805. Construction progress. Any building permit issued becomes invalid if work authorized by it is not commenced within six (6) months of the date of issue or if the work authorized by the permit is suspended or discontinued for a period of one (1) year. (1993 Code, § 14-805)

14-806. Certificate of occupancy required. A certificate of occupancy issued by the building inspector is required in advance of the use or occupancy of:

- (1) Any lot or a change in the use thereof;
- (2) A building hereafter erected or altered or a change in the use of an existing building; and
- (3) Any nonconforming use that is existing at the time of the enactment of the provisions in this title or an amendment thereto that is changed, extended, altered, or rebuilt thereafter. The certificate of occupancy shall state specifically wherein the nonconforming use fails to meet the provisions of this title.

No certificate of occupancy shall be issued unless the lot or building or structure complies with all of the provisions of this title.

A record of all certificates of occupancy shall be kept on file in the office of the building inspector and a copy shall be furnished, on request, to any person having a proprietary to tenancy interest in the building or land involved. (1993 Code, § 14-806)

14-807. Remedies. If any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained or any building, structure, or land is used in violation of the zoning provisions in this title, the building inspector or other appropriate authority or any adjacent or other property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to stop the violations in the case of such building, structure, or land. (1993 Code, § 14-808)

14-808. Board of zoning appeals. In accordance with *Tennessee Code Annotated*, §§ 13-7-205 to 13-7-207, the Decherd Municipal Planning Commission shall serve as the Decherd Board of Zoning Appeals.

(1) Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman, and at such other times as the board may determine. Such chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

(2) Appeals to the board. An appeal to the Decherd Board of Zoning Appeals may be taken by any persons, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by, any decision of the building inspector based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal specifying the grounds thereof. The building inspector shall transmit to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any persons or party may appear in person, by agent, or by attorney.

(3) Stay of proceedings. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the building inspector certifies to the board of zoning appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the restraining order, which may be granted by the board or by a court of competent jurisdiction on application, on notice to the building inspector, and on due cause shown.

(4) Appeal to the court. Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the board may seek review by a court of competent jurisdiction of such decision in a manner provided by the laws of the State of Tennessee.

(5) Powers of the board. The board of zoning appeals shall have the following powers:

(a) Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of this chapter;

(b) Special exceptions. To hear and decide applications for special exceptions as specified in this chapter, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the board of zoning appeals is authorized to pass; and

(c) Variances. To hear and decide applications for variances from the terms of this chapter. (1993 Code, § 14-809)

14-809. Variances. The purpose of this variance is to modify the strict application of the specific requirements of this chapter in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to

overcome some obstacle which is preventing an owner from using his property under this chapter.

(1) Application. After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the board of zoning appeals.

(2) Fee. A fee of twenty-five dollars (\$25.00), payable to the City of Decherd, shall be charged to cover partial review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

(3) Hearings. Upon receipt of an application and fee, the board shall hold a hearing to decide whether a variance to the chapter provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

(4) Standards for variances. In granting a variance, the board shall ascertain that the following criteria are met.

(a) Variances shall be granted only where special circumstances or conditions, fully described in the finding of the board, do not apply generally in the district.

(b) Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.

(c) For reasons fully set forth in the findings of the board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land.

(d) The granting of any variance shall be in harmony with the general purposes and intent of this chapter and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.

(e) In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the persons applying therefor. (1993 Code, § 14-810)

14-810. Violations and penalty. Upon conviction, any person violating any provision of this title shall be fined under the general penalty clause for this code of ordinances. (1993 Code, § 14-807)

CHAPTER 9

AMENDMENT AND LEGAL STATUS

SECTION

14-901. Amendments.

14-902. Legal status provisions.

14-901. Amendments. This section is established to provide a means whereby certain desirable changes and additions can be made to the zoning ordinance from time to time. These amendments must be in relation to the comprehensive plan and the general welfare of the community.

Chapters 2 through 7 in this title may be amended from time to time by the city council, but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the Decherd Planning Commission for review and recommendation. The planning commission shall have thirty (30) days within which to submit its report. If the planning commission disapproves the amendment, within thirty (30) days, it shall require the favorable vote of a majority of the city council to become effective. If the planning commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.

Before enacting an amendment to chapters two through seven in this title, the city council shall hold a public hearing thereon, at least fifteen (15) days' notice of the time and place of which shall be published in a newspaper of general circulation in the City of Decherd. (1993 Code, § 14-901)

14-902. Legal status provisions. This section is established to present the legal status of chapters 2 through 7 in this title and to resolve differences and conflicts between such provisions and other ordinances.

Whenever such regulations of this title require more restrictive standards than are required in or under any other statute, the requirements of this title shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this title, the provisions of such statute shall govern.

Should any section or provision of this title be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the title as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

The zoning provisions in this title shall take effect and be in force from and after the date of their adoption, the public welfare demanding it. (1993 Code, § 14-902)

CHAPTER 10

MOBILE HOMES AND TRAILER PARKS

SECTION

- 14-1001. Definitions.
- 14-1002. License required.
- 14-1003. License fees.
- 14-1004. Application for license.
- 14-1005. Board of investigators to enforce.
- 14-1006. Trailer park plan.
- 14-1007. Location of trailer parks.
- 14-1008. Water supply.
- 14-1009. Dependent trailer homes.
- 14-1010. Sewage and refuse disposal.
- 14-1011. Garbage receptacles.
- 14-1012. Fire prevention.
- 14-1013. Animals and pets.
- 14-1014. Register of occupants.
- 14-1015. Revocation of license.
- 14-1016. Posting of license.

14-1001. Definitions. As used in this chapter:

- (1) "Dependent mobile home." A mobile home which does not have a toilet and a bath or shower.
- (2) "Independent mobile home." A mobile home that has a toilet and a bath or shower.
- (3) "Independent mobile home space." A mobile home space which has sewer and water connections designated to accommodate the toilet and bath or shower contained in an independent mobile home.
- (4) "License." The permit required for mobile homes and parks. Fees charged under the license requirement are for inspection and the administration of this chapter.
- (5) "Mobile home (trailer)." A detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on a flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered as a mobile home.
- (6) "Mobile home space." A plot of ground within a trailer park designated for the accommodation of one mobile home.
- (7) "Natural or artificial barrier." Any river, pond, canal, railroad, levee, embankment, fence, or hedge.

(8) "Park." Trailer park.

(9) "Person." Any natural individual, firm, trust, partnership, association, or corporation.

(10) "Trailer park." Any plot of ground upon which two (2) or more trailer coaches, occupied or unoccupied for dwelling purposes, are located, regardless of whether or not a charge is made for such accommodation.

(11) "Travel trailer." A vehicular, portable structure built upon a chassis, or a pick-up camper, or a tent-trailer, or a similar device designed to be used as a temporary dwelling for travel and recreational purposes.

(12) "Travel trailer park." Any plot of ground upon which two (2) or more travel trailers, occupied for camping or periods of short stay, are located. (1993 Code, § 14-1001)

14-1002. License required. The following requirements for licenses shall apply to any trailer park or individual mobile home within the corporate limits of Decherd.

(1) Trailer parks. It shall be unlawful for any person to maintain or operate, within the corporate limits of the city, any trailer park unless such person shall first obtain a license therefor. All trailer parks in existence upon the effective date of the provisions in this chapter shall, within ninety (90) days thereafter, obtain such license and in all other respects fully comply with the requirements of this chapter.

(2) Individual mobile homes. It shall be unlawful for any person or persons to maintain an individual mobile home as a dwelling or for the owner of any property to let space for an individual trailer coach within the corporate limits of the city outside a trailer park or areas designated as R-3, high density residential district, as provided by the Zoning Ordinance of Decherd, Tennessee. The individual mobile home locating in such designated R-3 high density residential district shall be placed upon a permanent foundation, tied down or anchored, have obtained a license therefor, and complied with the adopted building code, and the Decherd Municipal Code. It shall be the responsibility of the occupant of the mobile home to secure the license. In the event that an individual mobile home is moved from one (1) location to another, a license must be secured for the mobile home at the new location regardless of the time elapsed since the original license was issued. Mobile homes already located in the corporate limits of the City of Decherd when these provisions become effective are not compelled to comply with the provisions herein, unless moved to a new location. (1993 Code, § 14-1002)

14-1003. License fees. An annual license fee shall be required for trailer parks and individual mobile homes as follows.

(1) Trailer parks. The annual license fee for trailer parks shall be fifteen dollars (\$15.00) for each park.

(2) Individual mobile homes. The annual license fee for each trailer coach shall be five dollars (\$5.00). The fee for transfer of the license because of a change in ownership or occupancy shall be five dollars (\$5.00). (1993 Code, § 14-1003)

14-1004. Application for license. (1) Trailer parks. The application for a trailer park license shall be filed with, and the license issued by, the city building inspector. The application shall be in writing, signed by the applicant, and shall contain the following:

- (a) The name and address of the applicant;
- (b) The location and legal description of the trailer park;
- (c) A complete plan of the park showing compliance with § 14-305;
- (d) Plans and specifications of all buildings and other improvements constructed or to be constructed within the trailer park; and
- (e) Such further information as may be required by the City of Decherd to enable it to determine if the proposed park will comply with legal requirements.

Each application and all accompanying plans and specifications shall be filed in triplicate.

(2) Individual mobile homes. The application for an individual trailer coach license shall be filed with, and the license issued by, the city building inspector. The application shall be in writing, signed by the applicant, and shall contain the following:

- (a) The names of the applicant and all people who are to reside in the trailer coach;
- (b) The description of the mobile home;
- (c) The state license number, make, model, and year of the mobile home and each automobile owned by the occupants of the mobile home; and
- (d) Such further information as may be required by the City of Decherd to enable it to determine if the trailer home and site will comply with legal requirements.

The application shall be filed in triplicate. (1993 Code, § 14-1004)

14-1005. Board of investigators to enforce. A board of investigators consisting of the city 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 the board, appoint a secretary for the board from among the employees of the city.

It is hereby made the duty of said board to enforce all provisions of this chapter as prescribed herein or such provisions as may hereafter be enacted. 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 home or homes are located, or are about to be located, to inspect the same and all trailer homes and accommodations connected therewith at any reasonable time. The board is further empowered to issue orders granting, renewing, and revoking such permits and licenses as are provided for in accordance with the provisions of this chapter. (1993 Code, § 14-1005)

14-1006. Trailer park plan. The trailer park shall conform to the following requirements.

(1) The park shall be on a well-drained site which is properly graded to ensure rapid drainage and freedom from stagnant pools of water.

(2) The proposed site shall contain a minimum area of three (3) acres.

(3) There shall be a maximum of nine (9) mobile home spaces per gross acre.

(4) Mobile home spaces shall have a minimum of three thousand (3,000) square feet each with a minimum width of forty feet (40').

(5) A minimum of fifty percent (50%) development of the total number of mobile home spaces in the proposed park shall be available for occupancy before any mobile home space may be occupied by a mobile home.

(6) Within a mobile home space the minimum front yard setback for a mobile home shall be ten feet (10') and the minimum side yard setback shall be seven feet (7'). No mobile home shall be located closer than ten feet (10') from any property line bounding the park.

(7) All mobile home spaces shall abut upon a driveway of not less than twenty feet (20') in width which shall have unobstructed access to a public street or highway. All driveways constructed after the effective date of the provisions in this chapter shall be hard-surfaced.

(8) A planted buffer strip, not less than ten feet (10') in width shall be located along the property lines of the park, except across driveways and streets.

(9) An electrical outlet supplying at least 230/115 volts shall be provided for each trailer home space. (1993 Code, § 14-1006)

14-1007. Location of trailer parks. Trailer parks may be located only in R-3 high density residential district, within the City of Decherd as provided by the Zoning Ordinance of Decherd, Tennessee. Each boundary of the park must be at least forty feet (40') 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 said forty feet (40') consent in writing to the establishment of the park. (1993 Code, § 14-1007)

14-1008. Water supply. An adequate supply of pure water for drinking and domestic purposes shall be supplied to meet the requirements of the park. (1993 Code, § 14-1008)

14-1009. Dependent trailer homes. Dependent trailer homes, as herein defined, shall not be parked within the corporate limits of the City of Decherd, 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 mobile home spaces in the park.

All service buildings and the grounds of the park shall be maintained in a clean, slightly condition and kept free from any conditions that will menace the health of any occupant or the public or constitute a nuisance. (1993 Code, § 14-1009)

14-1010. Sewage and refuse disposal. Waste from toilets, sinks, and laundries shall be discharged into a public sewer system in compliance with applicable ordinances 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, wash-basins, and bath or shower tubs in a mobile home may empty into a sanitary sink drain located on the trailer home space. (1993 Code, § 14-1010)

14-1011. Garbage receptacles. A garbage can of a standard required by the City of Decherd shall be provided for each mobile home. The garbage can and surrounding area shall be kept in a sanitary condition at all times. (1993 Code, § 14-1011)

14-1012. Fire prevention. Every park shall be equipped at all times with one (1) fire extinguisher in good working order, for every ten (10) mobile home spaces, located not farther than two hundred feet (200') from each mobile home space. No open fires shall be permitted at any place which would endanger life or property. No fires shall be left unattended at any time. (1993 Code, § 14-1012)

14-1013. Animals and pets. 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. (1993 Code, § 14-1013)

14-1014. Register of occupants. It shall be the duty of each licensee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

- (1) The name and address of each occupant;
- (2) The name of each owner and the make, model, year, and state license number of all mobile homes;

(3) The license number, the name of owner, and the make, model, and year of each automobile by which the mobile home is towed, in addition to the same information for other automobiles belonging to occupants of mobile homes within the park; and

(4) The dates of arrival and departure of each mobile home.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of three (3) years following the date of registration. (1993 Code, § 14-1014)

14-1015. Revocation of license. The city may revoke any license to maintain and operate a park when the licensee fails to comply with any provision of this chapter and is found guilty by a court of competent jurisdiction of such violation. After such conviction, the license may be reissued if the circumstances leading to the conviction have been remedied and the park can be maintained and operated in full compliance with the law. (1993 Code, § 14-1015)

14-1016. Posting of license. The license certificate for a trailer park shall be posted near the front door of the office or elsewhere in a conspicuous place on the premises of the trailer park at all times. (1993 Code, § 14-1016)

CHAPTER 11

SIGN REGULATIONS

SECTION

14-1101. Sign standards and regulations.

14-1102. Violations of this ordinance.

14-1101. Sign standards and regulations. (1) Billboards and other advertising structures. (a) No billboard or ground sign or other advertising structures shall be erected to exceed the maximum height limitation for the zoning district in which it is located.

(b) Billboards shall be erected or placed in conformity with the side and front yard requirements of the zoning district in which located. However, no billboard shall be erected or placed closer than within one thousand feet (1,000') of any residential zoned district. There shall be a minimum distance separation of two thousand feet (2,000') between billboards. Distance separation shall be measured along road or street ways.

(2) R-1 low density residential districts. (a) Church bulletin boards not exceeding twenty (20) square feet in area;

(b) Home occupations. Customary incidental home occupations including the professional office of an architect, artist, dentist, engineer, lawyer, physician and the like, barber, beauty, and tailor shops, or the accommodation of not more than two (2) boarders provided there is no external evidence of such occupation except an announcement sign not more than two (2) square feet in area and that the operations are conducted within a dwelling by not more than one (1) person in addition to those persons resident therein;

(c) Rental property. Signs not more than six (6) square feet in area advertising the sale or rental of the property on which they are located; and

(3) C-1 central business district. (a) Outdoor advertising not including billboards; and

(b) Professional or announcement.

(4) I-1 light industrial district. (a) Business; and

(b) Outdoor advertising including billboards.

(5) I-2 heavy industrial district. (a) Business; and

(b) Outdoor advertising including billboards.

(6) Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.

(7) Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any

public street or alley except when expressly authorized by the city council after a finding that no hazard will be created by such banner or sign. (as added by Ord. #437, Nov. 2021 ***Ch2_04-09-24***)

14-1102. Violations of this ordinance. A violation of any provision of this ordinance shall subject the offender to being cited to city court. Each violation of such shall constitute a separate offence and may subject the violator to a fine for each violation per day. (as added by Ord. #437, Nov. 2021 ***Ch2_04-09-24***)

CHAPTER 12

HISTORICAL ZONING COMMISSION

SECTION

14-1201. Creation of historic zoning commission.

14-1202. Powers and duties.

14-1203. Jurisdiction.

14-1204. Review of decision.

14-1101. Creation of historic zoning commission.

14-1101. Creation of historic zoning commission. (1) In accordance with *Tennessee Code Annotated*, § 13-7-401 *et seq.* there is hereby created a historic zoning commission for the City of Decherd which shall officially be known and designated as the "Decherd Historic Zoning Commission."

(2) The commission shall be comprised of five (5) members which consist of an architect, if available; a member of a local historic organization; a member of the Decherd Planning Commission at the time of such person's appointment; and the remainder shall be from the community in general.

(3) The members of the commission shall be appointed by the mayor, subject to confirmation by the council. The terms of the members shall be five (5) years, except that the members appointed initially shall be appointed for staggered terms so that the terms of at least one (1) member but not more than two (2) members shall expire each year. All members shall serve without compensation.

(4) The commission shall annually elect from its members a chairman, vice-chairman and a secretary and shall establish a meeting schedule which provides for meetings with sufficient frequency to enable the commission to act without undue delay. The commission may adopt rule and regulations consistent with the provisions of *Tennessee Code Annotated*, § 13-7-403(a). (as added by Ord. #O3-24, April 2024 **Ch2_04-09-24**)

14-1102. Powers and duties. (1) The Decherd Historical Zoning Commission shall review all permits for construction, alteration, repair, rehabilitation, relocation or demolition of any structure, or building in the designated zone, and further shall be authorized to review any construction, alteration, repair, relocation or demolition project on any structure not requiring permit in accordance with *Tennessee Code Annotated*, § 13-7-407(a), and which according to adopted guidelines requires a certificate of appropriateness.

(2) Historic zones and boundaries shall be recommended by the historic zoning commission to the Decherd Planning Commission and Council of the City of Decherd.

(3) The commission shall adopt design guidelines for the historical district that specify the architectural and design elements and parameters to be

permitted in the historical district. (as added by Ord. #O3-24, April 2024 *Ch2_04-09-24*)

14-1103. Jurisdiction. The historic zoning commission shall adopt rules and regulations regarding review of construction projects and issuance or denial of certificate of appropriateness for such projects. However, in all cases the commission shall review within thirty (30) days all applications for construction within the designated zone. If a certificate of appropriateness is denied, then the applicant shall be informed of the commission's finding in writing no later than seven (7) days after the termination of the thirty (30) day period. (as added by Ord. #O3-24, April 2024 *Ch2_04-09-24*)

14-1104. Review of decision. Any person who may be aggrieved by any final order or judgment of the historic zoning commission may have such order or judgment reviewed by the courts as provided in *Tennessee Code Annotated*, title 27, chapter 8. (as added by Ord. #O3-24, April 2024 *Ch2_04-09-24*)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. General requirements for traffic-control signs, etc.
- 15-109. Unauthorized traffic-control signs, etc.
- 15-110. Presumption with respect to traffic-control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.

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.

- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Bicycle riders, etc.
- 15-122. Accidents.
- 15-123. Skateboard use.
- 15-124. Compliance with financial responsibility law required.
- 15-125. Adoption of state traffic statutes.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by *Tennessee Code Annotated*, title 55, chapter 9. (1993 Code, § 15-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1993 Code, § 15-102)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1993 Code, § 15-103)

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

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

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1993 Code, § 15-104)

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

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1993 Code, § 15-105)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1993 Code, § 15-106)

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

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1993 Code, § 15-107)

15-108. General requirements for traffic-control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*,² and shall be uniform as to type and location throughout the city.

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

¹Municipal code references

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

²For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, *et seq.*

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. (1993 Code, § 15-109)

15-110. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. (1993 Code, § 15-110)

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1993 Code, § 15-111)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1993 Code, § 15-112)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to, any other moving vehicle upon any street, alley, or other public way or place. (1993 Code, § 15-113)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride, on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1993 Code, § 15-114)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1993 Code, § 15-115)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or

body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve inches (12") square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1993 Code, § 15-116)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1993 Code, § 15-117, modified)

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Classified and Commercial Driver License Act of 1988."

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

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

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

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1993 Code, § 15-119)

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

its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1993 Code, § 15-120)

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

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

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

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

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

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

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

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

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian to knowingly permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1993 Code, § 15-121)

15-122. Accidents. The driver of any vehicle involved in an accident, resulting in injury to or death of any person or damage to any property shall immediately stop at the scene of the accident and comply with all provisions of the state law as set out in *Tennessee Code Annotated*, §§ 55-10-101 to 55-10-116. (1993 Code, § 15-122)

15-123. Skateboard use. (1) Skateboarding laws. The following shall be the laws governing the use of skateboards within the city limits of the City of Decherd, Tennessee.

(a) Streets. No person shall operate a skateboard on a public street or parking lot within the City of Decherd.

(b) Sidewalks. No person shall operate a skateboard on any city owned sidewalk within the city's business district or any shopping center.

(c) Skateboard ramps. No person shall use or place a ramp, jump or any other device used to force a skateboard off the pavement on any city street, sidewalk, parks, or public parking lot.

(2) Fines. The fine for operating a skateboard in any of the areas listed above shall be as follows:

First offense	-	Warning issued;
Second offense	-	Ten dollar (\$10.00) fine plus court costs;
Third offense	-	Twenty-five dollar (\$25.00) fine plus court costs; and
Fourth offense	-	Fifty dollar (\$50.00) fine plus court costs.

(1993 Code, § 15-124)

15-124. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, 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. 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.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected.

15-125. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated* § 16-18-302, the City of Decherd 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 Decherd adopts *Tennessee Code Annotated*, §§ 55-4-101 through 55-4-128, §§ 55-4-130 through 55-4-133, §§ 55-4-135 through 55-4-138, §§ 55-8-181 through 55-8-191, § 55-8-193, § 55-8-199, §§ 55-9-401 through 55-9-408, §§ 55-9-601 through 55-9-606, § 55-12-139, and § 55-50-351, by reference as if fully set forth in this section. (as added by Ord. #436, Sept. 2021 *Ch2_04-09-24*)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

- 15-201. Authorized emergency vehicles defined.
- 15-202. Operation of authorized emergency vehicles.
- 15-203. Following emergency vehicles.
- 15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the city council. (1993 Code, § 15-201)

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

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

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

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1993 Code, § 15-202)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1993 Code, § 15-203)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or police officer. (1993 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones and playgrounds.

15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1993 Code, § 15-301)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (1993 Code, § 15-302)

15-303. In school zones and playgrounds. It shall be unlawful for any person to operate or drive a motor vehicle in excess of the following speed limits when passing a school during recess when children are present or while children are going to or leaving school ninety (90) minutes before the opening hour of a school or a period of ninety (90) minutes after the closing hour of a school:

(1) The speed limit at North Middle School shall be posted and enforced at thirty (30) miles per hour on both Highway 41-A and Highway 127;

(2) The speed limit at Good Shepherd School on Highway 41-A shall be posted and enforced at twenty-five (25) miles per hour; and

(3) The speed limit at the Decherd Elementary School shall be posted and enforced at fifteen (15) miles per hour. (1993 Code, § 15-303, modified)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by proper authority. (1993 Code, § 15-304)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

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

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

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1993 Code, § 15-401)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1993 Code, § 15-402)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of the intersection of the centerline of the two (2) roadways. (1993 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1993 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (1993 Code, § 15-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

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

15-501. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1993 Code, § 15-502)

15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1993 Code, § 15-503)

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

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train;
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train;
- (3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach; or
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1993 Code, § 15-504)

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk

on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1993 Code, § 15-505)

15-505. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1993 Code, § 15-506)

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

(1) Green alone, or "Go".

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

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

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

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

(b) Pedestrians facing such signal shall not enter the roadway.

(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 traffic facing such signal may, after coming to full stop, cautiously enter the intersection to make a right turn, but shall yield the right-of-way to pedestrians lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway.

(4) 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. (1993 Code, § 15-507)

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

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

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

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1993 Code, § 15-508)

15-508. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1993 Code, § 15-509)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.

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

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

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

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1993 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1993 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1993 Code, § 15-603)

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

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection or within fifteen feet (15') thereof;
- (4) Within fifteen feet (15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within fifty feet (50') of a railroad crossing;
- (7) Within twenty feet (20') of the driveway entrance to any fire hall, and on the side of the street opposite the entrance to any fire hall within seventy-five feet (75') of the entrance;
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (10) Upon any bridge;
- (11) Alongside any curb painted yellow or red by the city;
- (12) In an area designed as "handicapped parking;"
- (13) In an area designated as "fire lane;" or
- (14) In an area in a public parking lot marked with diagonal yellow lines through entire space. (1993 Code, § 15-604)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone.

Trucks serving business houses shall use alleys at the rear of such businesses when they are available. (1993 Code, § 15-605)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1993 Code, § 15-606)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Violations and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1993 Code, § 15-701)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1993 Code, § 15-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1993 Code, § 15-703)

15-704. Impoundment of vehicles. The police department is hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any

¹State law reference

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

vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1993 Code, § 15-704)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in *Tennessee Code Annotated*, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 to 55-16-109. (1993 Code, § 15-705)

15-706. Violations and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic and parking citations generally. Traffic citations and parking citations, except for handicapped parking, shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of fifty dollars (\$50.00). (1993 Code, § 15-706, modified)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. RIGHT-OF-WAY ACCEPTANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Deleted.
- 16-105. Deleted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Operation of trains at crossings regulated.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Mutual aid agreement with other local governments.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1993 Code, § 16-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (1993 Code, § 16-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited.

It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1993 Code, § 16-103)

16-104. Deleted. (1993 Code, § 16-104, as deleted by Ord. #437, Nov. 2021 *Ch2_04-09-24*)

16-105. Deleted. (1993 Code, § 16-105, as deleted by Ord. #437, Nov. 2021 *Ch2_04-09-24*)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1993 Code, § 16-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk or within thirty feet (30') of same, any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1993 Code, § 16-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1993 Code, § 16-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1993 Code, § 12-109)

16-110. Parades etc., regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1993 Code, § 16-110)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1993 Code, § 16-111)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1993 Code, § 16-112)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1993 Code, § 16-113)

16-114. Mutual aid agreement with other local governments.¹ The City of Decherd Street and Sanitation Department may respond in emergency situations at the request of other local governments. The street department is not obligated to respond.

(1) The street department may respond to calls for assistance only upon the request for such assistance made by the department head in charge of the agency requesting the assistance.

(2) The authority to respond to such a request will be made by the street department commissioner or the street department superintendent, or his designated assistant.

(3) The street department may provide whatever equipment and personnel as deemed necessary up to a maximum of fifty percent (50%) of its personnel and resources.

(4) The street department may provide whatever equipment and personnel it deems appropriate up to a maximum of fifty percent (50%) of its personnel and resources.

(5) The Decherd Street Department may return to its own jurisdiction at the discretion of the street superintendent or his designated assistant in charge of the City of Decherd.

(6) Compensation for this mutual aid agreement will be made in an in-kind manner. (1993 Code, § 16-114)

¹Municipal code reference
Mutual aid agreements: title 20.

CHAPTER 2

EXCAVATIONS AND CUTS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate or vary from the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1993 Code, § 16-201)

16-202. 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. (1993 Code, § 16-202)

16-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) square feet in length; and twenty-five cents (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1993 Code, § 16-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. 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 said cost. From this deposit shall be deducted the expense to the city of re-laying 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. (1993 Code, § 16-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1993 Code, § 16-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the city, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the 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. (1993 Code, § 16-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that insurance coverage of three hundred thousand dollars (\$300,000.00) for bodily injury of any one (1) person in one (1) accident or occurrence, seven hundred thousand dollars (\$700,000.00) for bodily injury or death from any one (1) accident or occurrence, and one hundred thousand dollars (\$100,000.00) for property damage.¹ (1993 Code, § 16-207, modified)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the 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. (1993 Code, § 16-208)

16-209. 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. (1993 Code, § 12-209)

¹State law reference

Tennessee Code Annotated, § 29-20-403.

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the 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 feet (35') in width at its outer or street edge, and when two (2) or more adjoining driveways are provided for the same property, a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1993 Code, § 16-210)

CHAPTER 3

RIGHT-OF-WAY ACCEPTANCE

SECTION

- 16-301. Acceptance of rights-of-way.
- 16-302. New streets.
- 16-303. Existing streets.
- 16-304. Maintenance standards.
- 16-305. City street list.
- 16-306. Street closure.

16-301. Acceptance of rights-of-way. All streets that are maintained by the city must be approved as city streets by the board of mayor and aldermen and included on the city street list. (Ord. #389, Aug. 2015)

16-302. New streets. All new streets constructed in the City of Decherd shall be approved in the following manner:

- (1) The superintendent of the street department with the codes official must certify to the Decherd Municipal Regional Planning Commission that the street meets the minimum roadway standards as specified by the subdivision regulations of the City of Decherd;
- (2) The Decherd Municipal Regional Planning Commission must recommend acceptance to the board of mayor and aldermen;
- (3) The street must be accepted and named by resolution of the board of mayor and aldermen;
- (4) The right-of-way must be deeded to the city by the owner of the property; and
- (5) The street must be entered into a city street list maintained by the city administrator. (Ord. #389, Aug. 2015)

16-303 Existing streets. Existing streets will receive consideration for acceptance by the city if:

- (1) The street serves two (2) or more property owners, and has direct access to an existing street, and a minimum right-of-way of fifty feet (50');
- (2) The street is expressly dedicated by the owner;
- (3) The street must meet the minimum standards set forth in the subdivision regulations of the City of Decherd for the type of road;
- (4) The Decherd Municipal Regional Planning Commission must recommend acceptance to the board of mayor and aldermen;
- (5) The street must be accepted by resolution of the board of mayor and aldermen; and
- (6) The street must be entered into a city street list maintained by the city administrator. (Ord. #389, Aug. 2015)

16-304. Maintenance standards. All accepted streets shall be maintained in as close to the same condition as when they were accepted. (Ord. #389, Aug. 2015)

16-305. City street list. The city administrator shall maintain a city street list which includes:

- (1) The name of the street;
- (2) The length of the street to the nearest tenth of a mile;
- (3) The beginning and ending points of the street;
- (4) The width of the right-of-way;
- (5) The width of the pavement; and
- (6) Street maintenance and paving records. (Ord. #389, Aug. 2015)

16-306. Street closure. Any city street which has been legally dedicated and accepted for public use may be closed by ordinance if recommended by the Decherd Municipal Regional Planning Commission, and if requested, can be deeded to the adjacent property owner. The expense of closure shall be shared equally between the persons receiving the property. (Ord. #389, Aug. 2015)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined, except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1993 Code, § 17-101)

17-102. Premises to be kept clean. All persons within the City of Decherd are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1993 Code, § 17-102)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within this city where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers of a type and design approved by the city recorder, but in no event will metal oil drums be used. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which

¹Municipal code reference

Property maintenance regulations: title 13.

the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two feet (2') thick before being deposited for collection. (1993 Code, § 17-103)

17-104. Location of containers. Where alleys are used by the city refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied, they shall be removed by the owner to within or to the rear of his premises and away from the street line until the next scheduled time for collection. (1993 Code, § 17-104)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1993 Code, § 17-105)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the city council shall designate. Collections shall be made regularly in accordance with an announced schedule. (1993 Code, § 17-106)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1993 Code, § 17-107)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the city council is expressly prohibited. (1993 Code, § 17-108)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. WATER AND SEWERS.
2. USER CHARGE SYSTEM.
3. GENERAL WASTEWATER REGULATIONS.
4. PRIVATE SEWAGE DISPOSAL REGULATIONS.
5. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

WATER AND SEWERS

SECTION

- 18-101. City council, board of mayor and alderman to supervise and control.
- 18-102. Fluoridation of water supply authorized.
- 18-103. Limitations on accounts to be disbursed by the water board/city water works.
- 18-104. Water and sewer connection charges, water meter deposits, and water and sewer rates.
- 18-105. Mutual aid agreements with other local governments.

18-101. City council, board of mayor and aldermen to supervise and control. Until such time a new board of water works and sewerage commissioners may be appointed, the city council, board of mayor and aldermen (noted hereafter as the city council) shall have supervision, administration, operation, and control of the City of Decherd water works, sewerage systems, and any other responsibilities so designated for these utilities, by the authority as noted in *Tennessee Code Annotated*, §§ 7-35-401 to 7-35-431. The members of the city council shall serve as such without additional compensation. The water works billing clerk and bookkeeper shall be bonded in the sum of ten thousand dollars (\$10,000.00). The city recorder, or such other employee appointed by the mayor, shall be the secretary at all meetings conducted when the city council sets as the water board.

The water board shall meet at 8:00 P.M. the second Monday of each month, or immediately after the city council meeting. (1993 Code, § 18-101)

¹Municipal code references

Building, utility, and residential codes: title 12.

Cross-connections: title 18, chapter 5.

Refuse disposal: title 17.

18-102. Fluoridation of water supply authorized. The Water Department of the City of Decherd, Tennessee, is hereby authorized and instructed to make plans for the fluoridation of the water supply to the city; to submit such plans to the Department of Health and Environment of the State of Tennessee for approval; and, upon approval, to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be borne by the revenues of the water department of the city. (1993 Code, § 18-102)

18-103. Limitations on accounts to be disbursed by the water board/city water works. The City of Decherd Water Board and city water superintendent shall disburse such funds as necessary, with the direct assistance of the bookkeeper, to maintain their financial requirements and demands, to include payrolls, within the following limitations:

(1) Will pay present bills, contracts, and other obligations presently established and approved by ordinance or resolution, or by the city council as recorded in the city council minute book;

(2) Will not incur any financial obligations to the city or the water works without prior approval by the city council, other than maintain present services except:

(a) Will not enter into any contracts or obligation exceeding five thousand dollars (\$5,000.00) without prior approval of the city council;

(b) The hiring or dismissal of any permanent or full-time employee will be approved by the water board; and

(c) Will not make any water or sewer bill adjustments without a thorough investigation on the matter(s) and the water board approves the adjustment that is proposed or requested before the adjustment is made.

(3) Will provide the city council copies of minutes of meetings and monthly financial status reports; and

(4) The city council shall, by ordinance, establish and maintain just and equitable rates and charges for the use of the services rendered by the water and sewerage works systems. (1993 Code, § 18-103)

18-104. Water and sewer connection charges, water meter deposits, and water and sewer rates.¹ Water and sewer connection charges, water meter deposits, and water and sewer rates shall be established by the board of mayor and aldermen from time to time by ordinance. (1993 Code, § 18-104, modified)

¹Water and sewer connection charges, deposits and rates (and amendments) are available in the office of the recorder.

18-105. Mutual aid agreements with other local governments.¹

The City of Decherd Water and Sewer Department may respond in emergency situations at the request of other local governments. The water and sewer department is not obligated to respond.

(1) The water and sewer department will respond to calls for assistance only upon the request for such assistance made by the department head in charge of the agency requesting the assistance.

(2) The authority to respond to such a request will be made by the water and sewer department commissioner, superintendent, or his assistant.

(3) The water and sewer department may provide whatever equipment and personnel as deemed appropriate up to a maximum of fifty percent (50%) of its personnel and resources.

(4) The water and sewer department's response will be determined by the severity of the emergency in the requesting department's jurisdiction as determined by the water and sewer department commissioners, superintendent, or assistant and the department head requesting the assistance.

(5) The Decherd Water and Sewer Department may return to its own jurisdiction at the discretion of the water and sewer superintendent or his designated assistant in charge of the water and sewer department.

(6) Compensation for this mutual aid agreement will be made in an in-kind manner. (1993 Code, § 18-107)

¹Municipal code reference
Mutual aid agreements: title 20.

CHAPTER 2

USER CHARGE SYSTEM

SECTION

- 18-201. Introduction.
- 18-202. User charge system.
- 18-203. User charges.
- 18-204. Surcharges.
- 18-205. Policy for developers, Decherd water and sewer system.
- 18-206. Water/sewer contract.
- 18-207. Industrial users fee.

18-201. Introduction. The City of Decherd, Tennessee has completed the design of wastewater treatment facilities and pump stations and of improvements to collection system under a Step 2 grant from the U.S. Environmental Protection Agency.

This report presents the User Charge (UC) system for the distribution of the cost of operation and maintenance of these facilities and for the distribution of debt service costs to all users of the wastewater collection, transportation, treatment, and disposal facilities operated by the City of Decherd. The user charge system developed herein is based on EPA guidelines as outlined in Appendix B of the *Federal Register*, Vol. 43, No. 188 dated September 27, 1978.

The federal guidelines recommend that the user charge system be reviewed annually and revised periodically to take into account the actual costs of operation and maintenance of the treatment works and the collection facilities. (1993 Code, § 18-201)

18-202. User charge system. To allocate operation, maintenance, and other costs of the wastewater facilities to the users, it is first necessary to prepare a proposed budget to establish the total revenue requirement for the operation and maintenance and for debt service for the facilities. This is presented in Table 1, Debt Service and O&M Costs. Table 2 shows the water usage for evaluating costs per unit of volume used by the customer.

The O&M costs shown in Table 1 are further divided into fixed and variable expenditures as shown in Table 3. Fixed costs are those that will be incurred regardless of the quantity and quality of the waste treated. The variable costs are those that will be dependent on the actual quantity and quality of the waste treated.

The user charge system has been developed on the basis of two (2) categories of charges:

- (1) Cost of treating waste of a quality normally expected for a domestic user; and

(2) Cost of treating wastewater of a strength higher than the base strength established for the first category.

The base line waste strength for assessing charges under these two (2) categories shall be determined by two (2) parameters, five (5) day biochemical oxygen demand and suspended solids. Wastes with BOD₅ and suspended solids values up to two hundred thirty-nine (239) mg/l and one hundred fifty-one (151) mg/l respectively, shall be considered to be falling under the first category. The users discharging wastes with strengths higher than these base line values shall be assessed a surcharge. This surcharge will be based on the O&M cost allocated to each of these parameters. The cost breakdown on the basis of BOD, suspended solids, and flow is presented in Table 4. (1993 Code, § 18-202)

18-203. User charges. The user charge shall be developed on a volume basis using Model No. 1 of the federal guidelines referred to above:

$$C_U = \frac{C_T}{V_T}$$

where: C_u = User's charge for operation and maintenance per unit of volume.
 C_T = Total annual operation and maintenance and debt service costs for wastewater treatment and transmission facilities.
 V_T = Total annual volume contribution from all users.

Referring to Table 1, total annual cost C_T is one hundred seventy one thousand six hundred seventy two dollars (\$171,672.00) and the total annual volume V_T from Table 2 is fifty three million five hundred eight thousand (53,508,000) gallons.

$$\begin{aligned} \text{Therefore, user charge } C_u &= \frac{171,672}{53,508,000} \\ &= \$3.21 \text{ per 1,000 gallons} \end{aligned}$$

Table 2 also indicates average residential usage of five thousand two hundred (5,200) gallons per month which would result in an average sewer user charge of sixteen dollars and sixty-nine cents (\$16.69) per month per residential customer. (1993 Code, § 18-203)

18-204. Surcharges. As mentioned earlier, for an equitable distribution of operation, maintenance, and other costs of the treatment and collection facilities, a surcharge will be developed for users discharging wastes of strengths

higher than the base line strength. This surcharge will be in proportion to the strength of waste discharged by the user. The surcharge will be based on allocation of O&M costs to BOD and suspended solids as shown in Table 4.

Annual cost of treatment

Allocated to BOD \$14,700.00

Annual BOD₅ loading = 349,670 lbs.

Therefore, treatment cost for BOD = \$0.04204 per lb. of BOD

Annual cost of treatment

Allocated to SS = \$5,600.00

Annual SS loading = 218,270 lbs.

Therefore, treatment cost for SS = \$0.02565 per lb. of SS

Based on the above unit treatment costs for BOD and suspended solids, the surcharge can be computed using Model No. 2 of the federal guidelines:

$$C_s = B_c (B) + S_c (S)$$

where C_s = Surcharge for wastewater of excessive strength

B_c = O&M cost for treatment of a lb. of BOD

B = BOD loading from a user above the base level of 239 mg/l, in lbs. BOD

S_c = O&M cost for treatment of a lb. of SS

S = SS loading from a user above the base level of 151 mg/l, in lbs. SS

The application of surcharge can best be explained by an example. Assuming that a user discharges waste of the following characteristics in a given month.

Discharge	15,000 gallons
BOD ₅	600 mg/l
SS	400 mg/l

$$\begin{aligned}
 \text{then B} &= 600-239 = 361 \text{ mg/l} \times 8.34 \times 0.015 \\
 &= 45.16 \text{ lbs. BOD} \\
 \text{and S} &= 400-151 = 249 \text{ mg/l} \times 8.34 \times 0.015 \\
 &= 31.15 \text{ lbs. SS}
 \end{aligned}$$

From above computation:

$$\begin{aligned}
 B_c &= \$0.04204 \text{ per lb. of BOD} \\
 S_c &= \$0.02565 \text{ per lb. of SS}
 \end{aligned}$$

$$\begin{aligned}
 \text{Therefore, surcharge, } C_s &= (0.04204 \times 45.16) \\
 &+ (0.02565 \times 31.15) \\
 &= 1.90 + 0.80 \\
 &= \$2.70
 \end{aligned}$$

This surcharge should be added to the base charge computed as follows:

$$\begin{aligned}
 \text{Base charge, } C_u &= 3.21 \times \frac{15,000}{1,000} \\
 &= \$48.15
 \end{aligned}$$

$$\begin{aligned}
 \text{Therefore, total charge to the user for the month under consideration} \\
 &= 48.15 + 2.70 \\
 &= \$50.85
 \end{aligned}$$

TABLE 1**DEBT SERVICE AND O&M COSTS**

DEBT SERVICE	ANNUAL
Existing sewer debt service	\$26,700
Future debt service	57,293
Total debt service	83,993
Reserve requirement	8,399
O&M COSTS	
Labor	\$32,400
Plant	22,600
Pump stations and sewer maintenance	11,300
Plant maintenance	2,800
Laboratory and testing	1,400
Chemicals, supplies, and miscellaneous	8,780
TOTAL O&M	\$79,280
TOTAL ANNUAL COST	
Debt service	83,993
Reserve	8,399
O&M	79,280
TOTAL ANNUAL COST	\$171,672

TABLE 2
WATER USAGE

	TOTAL	RESIDENTIAL	COMMERCIAL, INSTITUTIONAL, AND OTHERS
No. of water customers	1030	968	62
Avg. water sold per month, mg.	5.8000	5.0336 (86.79%)	0.7664 (13.21%)
No. of water and sewer customers	772	710	62
Avg. water sold per month to water and sewer customers, mg.	4.4584	3.6920 (82.81%)	0.7664 (17.19%)

NOTE: Figures in parenthesis is water usage as percentage of total.

Annual volume of water sold to
water and sewer customers: 12 x 2.4584
= 53,508,000 gallons/year

Average residential usage: 3,692,000/710
= 5,200 gallons/month

TABLE 3
BREAKDOWN OF BUDGETED COSTS INTO FIXED
AND VARIABLE EXPENDITURES

CATEGORY	ANNUAL EXPENDITURE, DOLLARS		
	FIXED	VARIABLE	TOTAL
Labor	32,400	0	32,400
Power	1,200	21,400	22,600
Pump stations and sewer maintenance	3,000	8,300	11,3000
Plant maintenance	1,800	1,000	2,800
Laboratory and testing	800	600	1,400
Chemicals, supplies, and miscellaneous	<u>6,000</u>	<u>2,780</u>	<u>8,780</u>
 Total O&M	 45,200	 34,080	 79,280
Debt service	83,993	0	83,993
Debt service reserve	<u>8,399</u>	<u>0</u>	<u>8,399</u>
Total annual cost	\$137,592	\$34,080	\$171,672

TABLE 4

ALLOCATION OF VARIABLE O&M EXPENDITURE

TO THE PARAMETERS OF

FLOW, BOD, AND SUSPENDED SOLIDS

ANNUAL VARIABLE EXPENDITURE ALLOCATION TO

CATEGORY		FLOW	BOD	SS
Power	21,400	2,400	14,000	5,000
Plant maintenance	1,000	500	250	250
Laboratory and testing	600	100	300	200
Chemical supplies and miscellaneous	<u>2,780</u>	<u>2,480</u>	<u>150</u>	<u>150</u>
Total, \$ (1972 Code, § 13-1A04)	25,780	5,480	14,700	5,600

18-205. Policy for developers, Decherd water and sewer system.

(1) Developer will submit a complete set of plans for review to the Decherd Utility System (DUS) showing all water and/or sewer lines to be installed (including services as required) prior to any construction of said utilities. These plans must be submitted on a time schedule allowing ample time for review by the DUS's engineer.

(2) The DUS's engineer will develop a reasonable cost estimate for the water and/or sewer system to serve the development, including any off-site improvements¹ that may be required to properly serve this development.

¹Off-site improvements include any work that has to be done to the existing water distribution or sewer collection system (line replacement, upsizing of lines, etc.). If there presently is no existing line between the DUS and the proposed development, there will be no off-site improvements, except when the DUS requires the developer to install larger lines than are required by their development. In instances such as this, the DUS would either pay for the increase in utility size or credit the developer for the "upsizing" cost.

(3) The developer will place ten percent (10%) of the cost estimate¹ with the DUS prior to plans being submitted to the Tennessee Department of Environment and Conservation for approval. The developer shall also place with DUS its surety bond or letter of credit for one hundred percent (100%) of the estimated construction cost, to be released upon successful completion of the utilities (water/sewer).

(4) The developer will install all water/sewer lines as per Tennessee State Department of Environment and Conservation approved plans, and the DUS's standard specifications. DUS standard specs are available at a cost of twenty-five dollars (\$25.00) per copy (water or sewer) at the office of DUS.

(5) The developer will pay to the DUS a privilege fee equal to one-half (1/2) of the amount of the current water and sewer tap fee at the time of development for each lot or unit if multi-unit housing in the proposed development, if the existing water or sewer system is not to be upgraded. This amount is to be paid prior to any service being turned on to the development.

(6) Developers will receive credit for off-site improvements by deducting privilege fees for lots, up to the full amount of the off-site improvements. This privilege fee credit per lot will be for the full amount of the current water/sewer tap fee.

If the costs of the off-site improvements exceed the amount of privilege fees, then the developer will have a credit with the DUS for privilege fees with future new development, but not for future off-site improvement costs. The ceiling amount assessed to the developer for sewer and/or water off-site improvements will be established by the board.

(7) All lines installed either on-site or off-site of development will be inspected and approved only by the DUS's personnel or the DUS's designated representative, at the developer's expense. (These inspection fees will be paid from the ten percent (10%) mentioned in subsection (3).) No water or sewer service will be turned on by anyone except the DUS's personnel.

(8) A set of as-built plans showing all mains and services must be submitted within sixty (60) days from completion of the utilities for approval by the DUS. If as-builts are not received within the sixty (60) day limit, service will be discontinued.

(9) No water service will be turned on at any tap until a meter deposit is paid to the DUS and a meter installed by the DUS personnel.

(10) The developer is responsible for obtaining all easements (fifteen foot (15') min.) for line installation. These easements are to be deeded to the DUS prior to any line construction.

¹This ten percent (10%) is to pay for engineering review, legal fees, and inspection. If ten percent (10%) is not enough to cover all costs incurred by the DUS, the remainder shall be paid by the developer before water or sewer service is turned on.

(11) The developer will be responsible for a warranty period of one (1) year on any lines installed by him in the development or off-site improvements. If repairs are made to said lines by the DUS within the warranty time, the total cost of these repairs will be charged to the developer, and will not come from the ten percent (10%) mentioned in subsection (3). Failure to pay for such repairs on a timely basis will constitute discontinuance of service to the development.

(12) Any inspections required of the DUS by the developer on lines being installed will require at least two (2) hours notice during regular working hours on scheduled work days.

(13) No construction of any lines by the developer will begin until the attached contract is duly executed and all provisions in the developers policy have been satisfied to the DUS, including a copy of the plans reflecting Tennessee Department of Environment and Conservation approval. (1993 Code, § 18-205)

18-206. Water/sewer contract.

WATER/SEWER CONTRACT

THIS AGREEMENT made on the _____ day of _____, _____, by and between the Decherd City Water Works, hereinafter referred to as "DUS" (Decherd Utility System) and _____ hereinafter referred to as "Developer".

W I T N E S S E T H :

WHEREAS, the DUS owns and operates a water/sewer system and said system will service the area or subdivision/development hereinafter designated or named; and

WHEREAS, the DUS revenues are pledged to secure its bonded indebtedness, so that expansions normally may be made only at the expense of new subdivisions/developments; and

WHEREAS, developer has made application for water/sewer services;

NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties herein contained, and other good and valuable considerations, the receipt of all of which is hereby acknowledged, the parties hereto have entered into the following agreement:

The DUS hereby agrees to and will permit the developer to connect onto the DUS water/sewer main or mains, to install the water/sewer services, mains, valves, fittings, etc., for water/sewer services to _____ . The

developer is to install all mains, valves, fittings, pipes, etc., dealing with the water/sewer services strictly in accordance with the drawings, plans, and specifications as drawn or approved by the Engineers for the DUS, which specifications are attached to the Agreement and made a part hereof as though copied herein.

The developer covenants and agrees to hold the DUS harmless from the claim of any person, firm, or corporation and to defend any action at law or equity brought and protect the DUS against any judgments rendered, growing out of the installation herein provided for whether the same be on private or public property and to follow all health, safety, workers' compensation, and all other applicable state or governmental agency statutes or regulations.

The developer will pay for all material and labor necessary to the installation and completion of the project in accordance with all drawings, plans, specifications and this Agreement, and at the conclusion of the installations, the DUS shall become and be the sole owner of said mains, free and clear of the claims of any person or persons whomsoever, and without the necessity of any further writing, contract or deed, it being the intention of the parties that this Contract shall operate as a conveyance of said mains when the same are installed. Any and all easements must be conveyed to DUS by deed.

In addition to the costs of the installation herein provided for, the developer hereby agrees to and will pay to the DUS upon execution of this contract ten percent (10%) of the cost of the installation of all water and sewer improvements, including services, which are to be installed in accordance with the Rules and Regulations of the DUS. Said ten percent (10%) of the price is to cover overhead, supervision, engineering inspection, legal, etc., services furnished by the DUS.

The DUS will inspect the water/sewer facilities, mains, valves, fittings, etc., to assure the DUS that the same are being installed in accordance with the plans and specifications, and state and local health departments' regulations.

It is understood that no third party shall obtain any benefits or rights under this Agreement in respect to water tapping privileges and no connection shall be made to any residence of other customer site until all necessary arrangements have been made in accordance with the policies of the DUS.

In addition to the payment of ten percent (10%) of the contract price to be paid upon execution of this contract as hereinbefore provided, the developer, at the time the subdivision/development is connected to the main distribution/collection system, will pay all water/sewer tapping privilege fees, water storage fees; and deposit fees, all as required by the DUS Standard Policy

for Developers, and will give its surety bond or letter of credit for one hundred percent (100%) of the construction costs as estimated by the DUS Engineer, in accordance with the requirements of such standard policy for developers. A copy of such standard policy for developers is attached to and made a part of this contract and in the event of any discrepancies between the terms of the contract and the standard policy for developers, the latter shall control.

The developer hereby agrees to pay the DUS all costs and expenses, including attorney's fees incurred in enforcing this Agreement upon the developer's breach of the Agreement.

The developer hereby warrants that no liens or encumbrances shall remain for the installation of said mains, valves, etc., and the developer hereby agrees that said mains, etc., shall be the sole property of the DUS.

The developer, in signing this Agreement, hereby warrants that the water/sewer mains, valves, fittings, etc., when installed will be in accordance with the foregoing provision, and the plans and specifications above referred to, and hereby bargains, sells, transfers and conveys the same to the DUS free and clear of all encumbrances of whatever nature or description.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the day and date first above written.

DECHERD CITY WATER WORKS

By: _____

DEVELOPER

By: _____

(1993 Code, § 18-206)

18-207. Industrial users fee. Compatible pollutants as listed below shall be regulated as mass based limits. These parameters include BOD₅, Oil and Grease (O&G), and Total Suspended Solids (TSS).

The City of Decherd may assess an "Industrial Users Fee" (IUF) to be charged to sewer users with approved permits on the monthly water/sewer bill. The IUF will be assessed for months during which any of the compatible pollutants have been detected at levels greater than those listed below:

IUF threshold limits

BOD =	238 mg/l
O&G =	50 mg/l
TSS =	300 mg/l

The IUF will be computed based on the following rates:

BOD =	\$0.30/lb
O&G =	\$0.14/lb
TSS =	\$0.14/lb

The IUF will be computed as follows:

The IUF will be assessed based on a monthly average of all measurements taken during a calendar month. Samples are to be analyzed by the user at the frequency stated in the user permit. The results for the preceding month are to be received at city hall by the fifteenth (15th) day of each month. The average of all results (including samples taken by the city, if any) for each parameter will be used to determine the IUF. The IUF threshold limit will be subtracted from the monthly average; the remainder is considered in the calculation of the IUF. This remainder amount (mg/l) will be converted to pounds (lbs) per month utilizing actual discharge meter records or as determined by the superintendent. An IUF dollar amount will be assessed based on the current rates and totaled for each parameter above the threshold limit. The IUF will be assessed monthly or as determined by the superintendent, but in no case shall extend beyond a six (6) month period. (1993 Code, § 18-207)

CHAPTER 3

GENERAL WASTEWATER REGULATIONS¹

SECTION

18-301. Adopted by reference.

18-301. Adopted by reference. The general wastewater regulations, copies of which are on file in the office of the city recorder, are adopted and incorporated as part of this code of ordinances as fully as if set out at length herein. (Ord. #378, Jan. 2014)

¹This ordinance (and amendments) are of record in the office of the recorder.

CHAPTER 4**PRIVATE SEWAGE DISPOSAL REGULATIONS¹****SECTION**

- 18-401. Definitions.
- 18-402. Use of public sewers required.
- 18-403. Private sewage disposal.
- 18-404. Prohibited sewage disposal.
- 18-405. Sanitary sewage disposal required.
- 18-406. Violations and penalty.

18-401. Definitions. For the purpose of this chapter:

(1) "Private sewage disposal system" means any privately owned system in which sewage is collected and disposed of on site and in accordance with rules and regulations of the Tennessee Department of Environment and Conservation. A private sewage disposal system is not a public sewer system.

(2) "Public sewer system" means the conduits, sewers, and all devices and appurtenances by means of which sewage is collected, pumped, treated or disposed of finally. Public sewer system does not include systems for private residences or dwellings.

(3) "Sewer" or "sewage" shall mean all human excrement, water-carried human and household wastes from residences, buildings, institutions or industrial establishments, together with such ground, surface, or storm water as may be present.

18-402. Use of public sewers required. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Decherd, or in any area under the jurisdiction of the city, any human or animal excrement, sewage, garbage, or other objectionable waste.

18-403. Private sewage disposal. When a public sewer system is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions and requirements of the Tennessee Department of Environment and Conservation.

¹Municipal code reference

Building, utility, and residential codes: title 12.

Cross-connections: title 18.

18-404. Prohibited sewage disposal. It shall be unlawful, except as provided herein, to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

18-405. Sanitary sewage disposal required. The owner of any public or private property shall operate and maintain private sewage disposal facilities in a sanitary manner, at all time, at no expense to the City of Decherd.

18-406. Violations and penalty. The penalty for violation of this chapter shall be fifty dollars (\$50.00) per incident, with each day that the violation is allowed to continue constituting a separate incident.

CHAPTER 5

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-501. Definitions.
- 18-502. Compliance with *Tennessee Code Annotated*.
- 18-503. Regulated.
- 18-504. Statement required.
- 18-505. Applicability.
- 18-506. Inspections/surveys.
- 18-507. Backflow prevention determination.
- 18-508. Use of protective devices.
- 18-509. Backflow prevention assembly installation requirements.
- 18-510. Existing backflow prevention assemblies.
- 18-511. Assembly performance evaluations and testing.
- 18-512. Corrections of violations.
- 18-513. Non-potable supplies.
- 18-514. Responsibility for water system.
- 18-515. Thermal expansion control.
- 18-516. Relief valves.
- 18-517. Safety standards; duplicate equipment in parallel required.
- 18-518. Violations and penalty.

18-501. Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) "Air gap." A physical separation between the free flowing discharge end of a potable water supply line and an open or non-pressurized receiving vessel.

(2) "Approved." Any condition, method, device, or procedure accepted by the Tennessee Department of Environment and Conservation, Division of Water Supply, and water provider.

(3) "Approved air gap." An air gap separation with a minimum distance of at least twice the diameter of the supply line when measured vertically above the overflow rim of the vessel, but in no case less than one inch (1").

¹Municipal code references

Plumbing code: title 12.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

(4) "Auxiliary intake." Any piping connection or other device whereby water may be secured from any sources other than from the public water system.

(5) "Auxiliary water supply." Any water supply on or available to the premises other than water supplied by the public water system.

(6) "Backflow." The reversal of the intended direction of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of a potable water system from any source.

(7) "Backflow prevention assembly." An approved assembly designed to prevent backflow.

(8) "Backpressure." A pressure in the downstream piping that is higher than the supply pressure.

(9) "Backsiphonage." Negative or sub-atmospheric pressure in the supply piping.

(10) "By-pass." Any system of piping or other arrangement whereby water may be diverted around a backflow prevention assembly, meter, or any other public water system controlled device.

(11) "Contaminant." Any substance introduced into the public water system that will cause illness or death.

(12) "Contamination." The introduction or admission of any foreign substances that causes illness or death.

(13) "Cross-connection." Any physical arrangement whereby public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of contaminating the public water supply as result of backflow caused by the manipulation of valves, because of ineffective check valves or backpressure valves or because of any other arrangement.

(14) "Cross-connection control coordinator/manager." The person who is vested with the authority and responsibility for the implementation of the cross-connection control program and for the provision of this chapter/policy.

(15) "Customer." Any natural or artificial person, business, industry, or governmental entity that obtains water, by purchase or without charge, from the water provider.

(16) "Double check detector assembly." A specially designed assembly composed of line size approved double check valve assembly, with a by-pass containing a water meter and approved double check valve assembly specifically designed for such application. The meter shall register accurately for very low rates of flow up to three (3) gallons per minute and shall show a registration for all rates of flow. This assembly shall only be used to protect against non-health hazards and is designed primarily for use on fire sprinkler systems.

(17) "Double check valve assembly." An assembly of two (2) internally loaded check valves, either spring loaded or internally weighted, installed as a

unit between tightly closing resilient seated shutoff valves and fitted with properly located resilient seated test cocks. This type of device shall only be used to protect against non-health hazard pollutants.

(18) "Failed." The status of a backflow prevention assembly determined by a performance evaluation based on the failure to meet all minimums set forth by the approved testing procedure.

(19) "Fire system classifications protection." The classes of fire protection systems, as designated by the American Waterworks Association "M14" for cross-connection control purposes based on water supply source and the arrangement of supplies, are as follows:

(a) "Class 1." Direct connection to the public water main only; non pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry well, or other safe outlets.

(b) "Class 2." Same as Class 1, except booster pumps may be installed in connection from the street mains.

(c) "Class 3." Direct connection to public water supply mains in addition to any one or more of the following: elevated storage tanks; fire pumps taking suction from above ground covered reservoirs or tanks; and pressure tanks.

(d) "Class 4." Directly supplied from public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

(e) "Class 5." Directly supplied from public water supply mains and inter-connection with auxiliary supplies such as pumps taking suction from reservoirs exposed to contamination, or from rivers, ponds, wells, or industrial water systems; where antifreeze or other additives are used.

(f) "Class 6." Combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(20) "Hazard, degree of." A term derived from evaluation of the potential risk to public health and the adverse effect of the hazard upon the public water system.

(21) "Hazard, health." A cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, caused death, illness, and spread disease.

(22) "Hazard, non-health." A cross-connection or potential cross-connection involving any substance that would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the public water supply.

(23) "Hazard, plumbing." A cross-connection in a customer's potable water system plumbing that is not properly protected by an approved air gap or backflow prevention assembly.

(24) "Industrial fluid." Any fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration that could constitute a health, system, pollution, or plumbing hazard if introduced into the public water supply. This shall include, but is not limited to: polluted or contaminated water; all type of process water or used water originating from the public water system and that may have deteriorated in sanitary quality; chemicals; plating acids and alkalis; circulating cooling water connected to an open cooling tower; cooling towers that are chemically or biologically treated or stabilized with toxic substance; contaminated natural water systems; oil, gases, glycerin, paraffin, caustic, and acid solutions, and other liquids or gases used in industrial processes, or for fire purposes.

(25) "Inspection." An on-site evaluation of an establishment to determine if backflow prevention assemblies are needed by the customer to protect the public water system from actual or potential cross-connections.

(26) "Inter-connection." Any system of piping or other arrangement whereby a public water supply is connected directly with a sewer, drain, conduit, or other device, which does, or may carry sewage or not.

(27) "Passed." The status of a backflow prevention assembly determined by a performance evaluation in which the assembly meets all minimums set forth by the approved testing procedure.

(28) "Performance evaluation." An evaluation of an approved double check valve assembly or reduced pressure principle assembly (including approved detector assemblies) using the latest approved testing procedures in determining the status of the assembly.

(29) "Pollutant." A substance in the public water system that would constitute a non-health hazard and would be aesthetically objectionable if introduced into the public water supply.

(30) "Pollution." The presence of a pollutant or substance in the public water system that degrades its quality so as to constitute a non-health hazard.

(31) "Potable water." Water that is safe for human consumption as prescribed by Tennessee Department of Environment and Conservation, Division of Water Supply.

(32) "Pressure vacuum breaker assembly." An assembly consisting of one (1) or two (2) independently operating spring loaded check valve(s) and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shutoff valve(s) on each side of the check valves and properly located test cocks for testing valves. This assembly is approved for internal use only and is not approved for premises isolation by the State of Tennessee.

(33) "Public water supply." An entity that furnishes potable water for general use and which is recognized as the public water supply by Tennessee Department of Environment and Conservation, Division of Water Supply.

(34) "Public water system." A water system furnishing water to the public for general use which is recognized as a public water supply by the State of Tennessee.

(35) "Reduced pressure principle assembly." An assembly consisting of two independently acting approved check valves together with hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and below the first check valve. These units shall be located between two (2) tightly closing resilient seated shutoff valves as an assembly and equipped with properly located resilient seated test cocks.

(36) "Reduced pressure principle detector assembly." A specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly, with a by-pass containing a water meter and approved reduced pressure principle backflow prevention assembly specifically designed for such application. The meter shall register accurately for very low flow rates of flows up to three (3) gallons per minute and shall show registration for all flow rates. This assembly shall be used to protect against non-health and health hazards and used for internal protection.

(37) "Service connection." The point of delivery to the customer's water system; the terminal end of a service connection from the public water system where the water department loses jurisdiction and control over the water. "Service connection" shall include connections to fire hydrants and all other temporary or emergency water service connection's made to the public water system.

(38) "State." The State of Tennessee, Tennessee Department of Environment and Conservation, Division of Water Supply.

(39) "Survey." An evaluation of a premises by a water system performed for the determination of actual or potential cross-connection hazards and the appropriate backflow prevention needed.

(40) "Water system." The water system operated, whether located inside or outside, the corporate limits thereof, shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility system shall consist of the facilities for the production, treatment, storage, and distribution of water, and shall include all those facilities of the water system under the complete control of the water department, up to the point where the customer's system begins (i.e., downstream of the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the water department distribution system that are utilized in conveying water to the point of use. (Ord. #350, March 2010)

18-502. Compliance with Tennessee Code Annotated. The public water system is to comply with *Tennessee Code Annotated*, § 68-221-711, as well as the *Rules of Public Water Systems*, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, by-passes, and inter-connections, and establish an effective, ongoing program to control these undesirable water uses. (Ord. #350, March 2010)

18-503. Regulated. (1) No person shall cause a cross-connection, auxiliary intake, by-pass, or inter-connection to be made, or allow one to exist for any purpose whatsoever unless the construction and operation of same has been approved by the Tennessee Department of Environment and Conservation and the operation of such cross-connections, auxiliary intake, by-pass, or inter-connection is at all times under the direct supervision of the cross-connection control manager/coordinator of the Decherd Water System.

(2) No water service connection to any premises shall be installed or maintained by Decherd Water System unless the water supply is protected as required by this chapter. Service of water to any premises shall be discontinued by the water system if a backflow prevention assembly required by this policy is not properly installed, tested, and/or maintained; or if it is found that a backflow prevention assembly has been removed, by-passed, or if an unprotected cross-connection exists on the premises. Service shall not be restored until such conditions or defects are correct.

(3) Prior to execution of any work order for a new customer, or for any change in service to an existing customer, notification shall be given to the office of the cross-connection control. Inspectors from the cross-connection control office shall make immediate determination to the customer of the type of backflow prevention assembly needed. Water service shall not be established or maintained until all necessary backflow prevention assemblies are installed.

(4) It shall be unlawful for any person to cause a cross-connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection is at all times under the direction of the manager of the Decherd Water System.

(5) If, in the judgment of the cross-connection manager/coordinator or designee, an approved backflow prevention assembly is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing, and maintenance of the required backflow prevention assembly(s) at the customer's expense.

(6) For new installations, the manager or his designee shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention assembly, if any, that will be required, and to

notify the owners of the required assembly and installation criteria. All required assemblies shall be installed and operational prior to initiation of water service.

(7) For all existing premises, personnel from the Decherd Water System shall conduct inspections and evaluations, and shall require correction of violations In accordance with the provisions of this chapter.

(8) For existing installations, the cross-connection manager/coordinator may cause water service to be discontinued until such time as the customer complies with all requirements of state law and this chapter.

(9) For new commercial or industrial construction or renovation of a commercial or industrial property, the cross-connection coordinator/manager or inspector shall inspect the site and review plans in order to determine the type(s) of backflow prevention assembly and notify the owner(s) the type of required assembly(s).

(10) The customer shall install approved assembly(s) at their expense. Failure, refusal, or inability on the part of the customer to install and maintain such an assembly shall be cause for discontinuance of, or refusal of, water service to the premises until such requirements are satisfactorily met.

(11) No installation, alteration, or change(s) shall be made to any backflow prevention assembly connected to the public water system without first securing permission from the cross-connection manager/coordinator.

(12) All backflow prevention assemblies will be inspected after installation for compliance with all requirements of this policy. Failure to meet all installation and testing requirements shall be cause for discontinuance of, or refusal of, water service to the premises until such requirements are satisfactorily met.

(13) It shall be unlawful to install or allow any unprotected takeoffs from the water service line ahead of any meter or backflow prevention assembly located directly after the service connection to a customer's water system. (Ord. #350, March 2010)

18-504. Statement required. Any person whose premises are supplied with water from public water system, and who also has on the same premises a separate source of water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the public water system a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or inter-connection. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or inter-connection will be permitted upon the premises. (Ord. #350, March 2010)

18-505. Applicability. The requirements contained herein shall apply to all customers of the public water system, and is hereby made a condition required to be met before water service is provided to any customer. This policy/ordinance shall be strictly enforced since it is essential for the protection

of the public water supply against contamination and pollution. (Ord. #350, March 2010)

18-506. Inspections/surveys. (1) The cross-connection manager/coordinator shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be established by the cross-connection manager/coordinator in accordance with guidelines acceptable to the Dechard Water Supply.

(2) The cross-connection manager/coordinator or designee shall have the right to enter at any reasonable time any property served by a connection to the public water system for the purpose of inspecting the piping system therein for cross-connections, auxiliary intakes, by-passes, or inter-connections. On request, the owner, lessee, or occupant or any property so served shall furnish any pertinent information regarding the piping system on the property. The refusal of such information or refusal of access, when requested, shall be deemed as evidence of the presence of connections.

(3) When cross-connections, other structural or sanitary hazards, or any violation of this becomes known, the cross-connection manager/ coordinator or designee may deny or discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the conditions(s) in conformance with this policy. (Ord. #350, March 2010)

18-507. Backflow prevention determination. An approved backflow prevention assembly shall be installed on each service line to a customer's premises within one hundred feet (100') of the water meter and in all cases, before the first branch line leading off the service line, if it is impractical or easily altered to provide an effective air gap separation, when any of the following conditions exist:

(1) Premises where industrial fluids, sewage, or any other non-potable substances are handled in such a manner as to create actual or potential health hazard to the water system;

(2) Premises having internal cross-connections that cannot be permanently corrected and controlled, intricate plumbing and piping arrangements, or where entry to all portions of the premises is not readily accessible for inspection purposes making it impractical or impossible to ascertain whether or not cross-connections exist;

(3) Premises having auxiliary water supply, including, but not limited to, a well, cistern, spring, pond, river, or creek that is not, or may not be, of safe bacteriological or chemical quality and that is not acceptable as an additional source by the cross-connection control manager/coordinator or designee;

(4) The plumbing from a private well or other water supply entering the building served by the public water supply, or is connected, directly or indirectly, to the public water supply;

(5) The owner or occupant of the premises cannot or is not willing to demonstrate that the water use and protective features of the plumbing are such that frequent alterations are made to the plumbing;

(6) The nature and mode of operation within the premises is such that frequent alterations are made to the plumbing;

(7) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;

(8) There is likelihood that protective measures may be subverted, altered, or disconnected;

(9) Any premises having service and fire flow connections, most commercial and educational buildings, construction sites, all industrial and medical facilities, lawn irrigation systems, public or private swimming pools, private fire hydrant connections used by any fire department in combating fires, photographic laboratories, standing ponds or other bodies of water, auxiliary water supplies, and wastewater treatment plants;

(10) Any premises having fountains, water softeners or other point of use treatment systems hot tubs or spas, or other type(s) of water using equipment;

(11) Premises otherwise determined by the cross-connection control manager/coordinator or designee to create an actual or potential hazard to the public water system;

(12) In the case of any premises where there is any material dangerous to health that is handled in such a fashion as may create an actual or potential health hazard to public water system, the public water system shall be protected by an air gap separation (at the discretion of Decherd Water) or a reduced pressure principle backflow prevention assembly. The following premises, where such conditions may exist, include, but are not limited to: sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries, funeral homes, and metal plating operations;

(13) In the case of any premises where, because of security requirements or other prohibitions or restriction it is impossible or impractical to make a complete cross-connection survey, the public water system shall be protected against backflow from the premises by either an air gap separation (at the discretion of the Decherd Water Department) or reduced pressure principle assembly on each service line to the premises;

(14) A backflow prevention assembly shall be installed on each fire service line at the property line or immediately inside the building being served, but in all cases, before the first branch line heading off the service line wherever any of the following conditions exist:

(a) Class 1, 2, and 3 fire protection systems shall require at minimum a double check valve (detector) assembly; provided however, that a reduced pressure principle (detector) shall be required:

(i) Underground fire sprinkler pipelines are parallel to and within ten feet (10') horizontally of pipelines carrying waste water or significantly toxic wastes;

(ii) Premises having unusually complex piping systems;

(iii) The pumpers connecting to the system have corrosion inhibitors or other chemical added to the tanks of the fire trucks;

(iv) The piping system(s) has corrosion inhibitors or other chemical added to prevent freezing; or

(v) An auxiliary water supply exists with one thousand seven hundred feet (1,700') of any likely pumper connection.

(b) Class 4, 5, and 6 fire protection systems shall require an air gap, or a reduced pressure principle assembly (detector) as determined by the cross-connection control manager/coordinator or designee.

(c) Where a fire sprinkler system is installed on the premises, a minimum of a double check valve assembly (detector) shall be required.

(d) Where a fire sprinkler system uses chemicals, such as liquid foam, to enhance fire suppression a reduced pressure principle detector assembly shall be required.

(e) The cross-connection control manager/coordinator may require internal or additional backflow prevention devices where it is deemed necessary to protect potable water supplies within the premises.

(15) In the case of any premises with an auxiliary water supply as set out in § 18-510 and not subject to any of the following rules, the public water system shall be protected by an air gap separation or a reduced pressure principle assembly;

(16) Double check valve assemblies (and detectors) may only be used for Class 1-3 fire protection systems (at the discretion of Decherd Water Department to allow);

(17) In the case of any premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by a reduced pressure principle assembly (detector) or air gap separation (at the discretion of Decherd Water Department) assembly on each service line to the premises;

(18) In the case of any premises where, because of security requirements or other prohibitions or restriction it is impossible or impractical to make a complete cross-connection survey, the public water system shall be protected against backflow from the premises by either an air gap separation (at the discretion of Decherd Water Department) or reduced pressure principle assembly on each service line to the premises; or

(19) In the case of any premises where toxic substances are present that could pose an undue health hazard, the cross-connection control

manager/coordinator or designee may require an air gap separation or reduced pressure principle assembly at the service connection to protect the public water system. In making this determination, the cross-connection control manager/coordinator or his designee shall consider the degree of hazard. (Ord. #350, March 2010)

18-508. Use of protective devices. (1) In commercial and industrial buildings, The City of Decherd, in order to protect the potable water supply requires the installation of a protective device that shall be approved by the City of Decherd cross-connection control coordinator or the City of Decherd codes official as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the water superintendent or an authorized representative of the Decherd water supply prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation and device shall be at the expense of the owner or occupant of the premises. All aspects of the ordinance also applies to commercial and residential buildings.

(2) In residential buildings, Where the nature of use of the water supplied a premises by the water department is such that it is:

(a) Deemed impractical to provide an effective air-gap separation;

(b) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water supply, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply;

(c) That the nature and mode of the operation within a premises are such that frequent alterations are made to the plumbing,

(d) There is a likelihood that protective measures may be subverted, altered, or disconnected, the water superintendent or the cross-connection control coordinator or codes official, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein.

The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Environment and Conservation as to manufacture, model and size. The method of installation of backflow protective devices shall be approved by the water superintendent or authorized representative of the Decherd water supply prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment. The installation and equipment shall be at the expense of the owner or occupant of the premises.

(3) Personnel of the Decherd public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed

necessary by the water superintendent or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(4) Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one (1) unit has been installed and the continuance of service is critical, the water superintendent or designated representative shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water supply shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the water superintendent or authorized representative of the Decherd public water supply.

(5) The failure to maintain backflow prevention device(s) in proper working order shall be grounds for discontinuing water service and possible fines (see § 18-510) to the premises. Likewise, the removal, bypassing, or altering of the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Decherd public water supply. (Ord. #394, April 2016)

18-509. Backflow prevention assembly installation requirements.

Minimum acceptable criteria for installation of backflow prevention assemblies shall include the following:

(1) All backflow prevention assemblies shall be installed at minimum in the approved orientation as indicated by the latest approved list.

(2) Installation of assemblies shall be performed by person granted authority by the water provider. All backflow prevention assemblies installed fire protection systems must be performed by persons possessing a fire sprinkler contractor license. Evidence of current certifications/license must be on file with the cross-connection control manager/coordinator before any installation or testing of the devices can be performed.

(3) All assemblies shall be installed in accordance with the manufacturer installation instructions and by the State of Tennessee installation guide, from the state manual or policies on cross-connection control, unless such instructions are in conflict with this policy, in which case the policy/ordinance shall control, and shall possess all test cocks and fittings required for testing the assembly. All test cocks will be fitted with adapters and all fittings shall permit direct connection to test kits used by the department.

(4) The entire assembly including test cocks and valves shall be easily accessible for testing and repair and shall meet all confined space requirements of OSHA/TOSHA.

(5) Reduced pressure backflow prevention assemblies shall be located so that the relief valve discharge port is a minimum of twelve inches (12"), plus nominal diameter of the supply line, above the floor surface. The maximum height above the floor surface shall not exceed sixty inches (60").

(6) Clearance of devices from wall surfaces or other obstructions shall be a minimum of six inches (6"); or if a person must enter the enclosure for repair or testing, the minimum distance shall be twenty-four inches (24").

(7) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive, sticky, greasy, abrasive, or other damaging substance.

(8) Devices shall be positioned where discharge from a relief port will not create undesirable conditions. An approved air gap shall separate the relief port from any drainage system. Such air gap shall not be altered without the specific approval of the department.

(9) Devices shall be located in an area free from submergence or flood potential.

(10) All devices shall be adequately supported to prevent sagging.

(11) An approved strainer, fitted with a test cock, shall be installed immediately upstream of all backflow prevention assemblies or shut-off valve, except on fire lines, using only non-corrosive fittings (e.g., brass or bronze) in the device assembly.

(12) Gravity drainage is required on all installations. Below ground installations shall not be permitted for reduced pressure principle assemblies (detectors).

(13) Fire hydrants drains shall not be connected to the sanitary sewer, and fire hydrants shall not be installed in such manner that back siphonage or backflow through the drain may occur.

(14) Where jockey (low volume-high pressure) pumps are utilized to maintain elevated pressure, as in fire protection system, the discharge of the pump shall be on the downstream side of any check valve or backflow prevention assembly. Where the supply for the jockey pump is taken from the upstream supply side of the check valve or backflow prevention assembly, a backflow prevention assembly of the same type(s) required on the main line shall be installed on the supply line.

(15) Fixed position, high volume fire pumps shall be equipped with suction limiting control to modulate the pump if the residual line pressure reaches twenty (20) psi. If line pressure drops below twenty (20) psi, the pump will shut off to protect the distribution system. This shut off system must be tested annually for proper operation and report of the test must be sent to the office of cross-connection control. (Ord. #350, March 2010)

18-510. Existing backflow prevention assemblies. (1) All presently installed backflow prevention assemblies which were previously acceptable to the State of Tennessee that complies with installation, testing, and maintenance requirements of this policy and, in the sole discretion of the cross-connection control manager/coordinator or designee, adequately protect the public water system from backflow and that were approved assemblies for the purpose described herein at the time of installation may be retained in service.

(2) Location or space requirements shall not be cause for relocation or replacement of any backflow prevention assembly that is presently installed in a vertical run of pipe shall be replaced, reinstalled, in an approved manner in a horizontal run of pipe.

(3) Wherever an existing assembly is moved from the present location, or when the inspector finds that the conditions of the assembly constitutes a health hazard, the unit shall be replaced by the backflow prevention assembly meeting the requirements of this policy. (Ord. #350, March 2010)

18-511. Assembly performance evaluations and testing. (1) All assemblies used to protect the public water system must be tested annually. In those instances where the cross-connection manager/coordinator deems the hazard to be great enough (criteria should be listed), performance evaluation may be required at more frequent intervals.

(2) All assemblies must be deemed passed for each initial and subsequent annual performance evaluations to satisfy as approved backflow prevention assembly.

(3) All assemblies will be tested by backflow prevention assembly tester with a valid (see definition) certificate of competency in testing and evaluation backflow prevention assemblies issued by the State of Tennessee.

(4) All performance evaluation must be performed with a certified test kit.

(5) Certifications for test kits are valid for one year after certification is performed. If the test kit is not recertified after one year, it is deemed expired.

(6) Test kits must be certified annually and the backflow prevention assembly tester must show proof of certification from manufacturer-approved entities. No performance evaluations will be accepted from a backflow prevention assembly tester with an expired test kit certification.

(7) Proof of annual test kit certification and certificate of competency must be kept on file for each tester by water provider.

(8) Backflow prevention assembly testers must test and evaluate according to the latest division of water supply's approved procedures for reduced pressure principle assembly and the double check valve assembly.

(9) If any test does not meet the minimum requirements set forth in the approved testing procedure, the assembly is deemed failed and does not suffice as an approved backflow prevention device. If conditions around the

assembly do not allow the assembly to be tested, the assembly fails the assembly performance evaluation and is marked failed on test report.

(10) Backflow prevention assemblies are deemed passed if all parts of the performance evaluation meet the minimum requirements in the approved testing procedure.

(11) Each location requiring an assembly will have a documented backflow prevention assembly, if the assembly at the address cannot be identified or is not the same, the water provider will be notified and a determination of which assembly is used for protection of the water system.

(12) Test reports must be completely and accurately documented and the appropriate evaluation (passed or failed) determined from testing procedure. Any test report that is not recorded completely in the sections pertinent to the results of the performance evaluation tests will not be accepted by the public water system.

(13) All performance evaluations on file will be recorded on an (state and water system) approved test report.

(14) Assemblies must be tested when installed and after every repair. Backflow prevention assemblies on lawn irrigation systems must be tested when assemblies are placed in service after winterization (to prevent testing just prior to winterization). If lawn irrigation backflow assemblies are removed to winterize the system, upon startup of the system, the assemblies must be retested.

(15) Failure to maintain a backflow prevention assembly that is deemed passed shall be grounds for discontinuance of water service. The removal, bypassing, or altering of a protective device or installation, without the approval of the cross-connection control manager/coordinator or designee, thereof so as to render a device ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction this chapter/policy and the cross-connection control manager/coordinator or designee.

(16) The water system shall require the occupant of the premises to keep the backflow prevention assembly working properly and a status of passed. Repairs shall be made by qualified personnel acceptable to the water system within the time limits set forth by this policy. Expense of such repairs shall be borne by the owner or occupant of the premises. The failure to maintain a backflow prevention assembly in proper working order and a status of passed shall be grounds for discontinuance of water service.

(17) The backflow prevention assembly must be tested after every repair and have a status of passed to be in compliance with this policy.

(18) Cross-connection control manager/coordinator or designee shall have the right to inspect and test any assemblies whenever it is deemed necessary. Water service shall not be disrupted to the assembly without the knowledge of the occupant of the premises.

(19) Any backflow prevention assembly tester found by the water system to be negligent in performing testing procedures or falsifying documentation in regards to a backflow prevention assembly will not be allowed continued approval to submit test reports. The water system may allow the backflow prevention assembly tester to perform testing at a later date, at the discretion of the cross-connection control manager/coordinator or designee.

(20) All performance evaluations, tests, and repairs that are at the expense of the customer shall be performed by backflow prevention assembly testers that satisfy all requirements of this chapter.

(21) Original records of evaluations and repairs shall be supplied to the cross-connection control manager/coordinator or designee for retention. (Ord. #350, March 2010)

18-512. Corrections of violations. (1) Any customer having cross-connections, auxiliary intakes, by-passes, or inter-connection(s) in violation of this chapter shall, after a thorough investigation of existing conditions and an appraisal of the time required, complete the work within the time designated by the cross-connection control manager/coordinator or designee, but in no case shall the time for correction exceed ninety (90) days.

(2) Failure to comply with any order of the cross-connection control manager/coordinator or designee within the time set out therein shall result in the termination of water service.

(3) Where cross-connections, auxiliary intakes, by-passes, or inter-connections are found to constitute an extreme hazard of immediate concern of contaminating the public water supply the cross-connection control manager/coordinator or designee shall require immediate corrective action be taken to eliminate the threat. Expeditious steps shall be taken to disconnect the public water system from the customer's piping systems unless the extreme hazard is correctly immediately.

(4) Failure to correct conditions threatening the safety of the public water system as prohibited by this chapter or *Tennessee Code Annotated*, § 68-221-711 within the time limits set by the cross-connection control manager/coordinator or designee or this chapter/policy, shall be cause for denial or termination of water service. If proper protection is not provided after times set forth in this policy/chapter, the cross-connection control manager/coordinator or designee shall give the customer written notification that water service is to be discontinued, and thereafter physically separate the public water system from the customer's system in such a manner that the two (2) systems cannot be connected by an unauthorized person.

(5) In the event that a backflow prevention assembly is deemed failed (initial or annual performance evaluation), failure to install backflow prevention assemblies as requested by the water system, or there are deficiencies in the installation from failure to conform to the installation criteria specified in this chapter, or from deterioration, then the cross-connection control

manager/coordinator or designee shall issue a written notice of failure or deficiency (within fourteen (14) days). The time limit is dependent on risk of contamination and may not be greater than ninety (90) days. (Ord. #350, March 2010)

18-513. Non-potable supplies. (1) Any water outlet connected to auxiliary water sources, industrial fluid systems, or other piping containing non-potable liquids or gases, which could be used for potable or domestic purposes, shall be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

(2) The minimum acceptable sign shall have black letters at least one inch (1") high on red background.

(3) Color coding of piping in accordance with Occupational Safety and Health Act guidelines may be required in locations where, in the judgment of the inspector, such color coding is necessary to identify and protect the potable water supply. (Ord. #350, March 2010)

18-514. Responsibility for water system. (1) Notwithstanding any provisions of a plumbing code adopted by units of local government having jurisdiction, the cross-connection control manager/coordinator or designee shall be responsible for protecting the water system from contamination or pollution due to implementation and enforcement of this policy. Such authority shall extend beyond service connection to whatever extent is necessary to meet the requirements of this policy.

(2) The authority to terminate water service for violation of any provision of this policy shall rest solely with the cross-connection control coordinator/manager, the assistant or designee shall have authority to take action to protect public health and safety.

(3) This section shall not be construed to prevent other officers or employees of the Decherd Water System from terminating water service for failure to pay for water service, or for violation any other provision of Decherd Water System policy. (Ord. #350, March 2010)

18-515. Thermal expansion control. A device for the control of thermal expansion shall be installed on the customer's water system where the thermal expansion of the water in the system will cause the water pressure to exceed the pressure setting of the pressure relief valve of the water heater. The thermal expansion device shall control the water pressure to prevent the pressure relief valve of the water heater from discharging. (Perhaps mention closed systems on residential areas about discharging water heaters at minimum). (Ord. #350, March 2010)

18-516. Relief valves. All storage water heaters operation above atmospheric pressure shall be provided with an approved, self-closing (levered) pressure relief and temperature valve, or combination thereof, except for nonstorage instantaneous heaters. Such valves shall be installed in the shell of the water heater tank or may be installed in hot water outlet, provided the thermo-bulb extends into the shell of the tank. Temperature relief valves shall be so located in the tank as to be actuated by water in the top eighth (1/8) of the tank served.

For installations with separate storage tank, said valve shall be installed on the tank and there shall not be any type of valve installed between the water heater and the storage tank. There shall not be a check valve or shut off valve between a relief valve and the heater or tank which it serves. The relief valve shall not be used as a means of controlling thermal expansion. (Ord. #350, March 2010)

18-517. Safety standards; duplicate equipment in parallel required. Where the use of water is critical to the continuation of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair a backflow prevention assembly. Until such time as a parallel unit has been installed where the continuance of service is critical, the cross-connection control manager/coordinator or designee shall notify the occupant of the premises of plans to interrupt water service and arrange for a mutually acceptable time to test or repair the assembly. (Ord. #350, March 2010)

18-518. Violations and penalty. (1) Any customer having cross-connections, auxiliary intakes, by-passes, or inter-connection(s) in violation of this chapter shall, after a thorough investigation of existing conditions and an appraisal of the time required, complete the work within the time designated by the cross-connection control manager/coordinator or designee, but in no case shall the time for correction exceed ninety (90) days.

(2) Failure to comply with any order of the cross-connection control manager/coordinator or designee within the time set out therein shall result in the termination of water service.

(3) Where cross-connections, auxiliary intakes, by-passes, or inter-connections are found to constitute an extreme hazard of immediate concern of contaminating the public water supply, the cross-connection control manager/coordinator or designee shall require immediate corrective action be taken to eliminate the threat. Expeditious steps shall be taken to disconnect the public water system from the customer's piping systems unless the extreme hazard is correctly immediately.

(4) Failure to correct conditions threatening the safety of the public water system as prohibited by this chapter or *Tennessee Code Annotated*, § 68-221-711 within the time limits set by the cross-connection control

manager/coordinator or designee, or this chapter/policy, shall be cause for denial or termination of water service. If proper protection is not provided after times set forth in this policy/chapter, the cross-connection control manager/coordinator or designee shall give the customer written notification that water service is to be discontinued, and thereafter physically separate the public water system from the customer's system in such a manner that the two systems cannot be connected by an unauthorized person.

(5) In the event that a backflow prevention assembly is deemed failed (initial or annual performance evaluation), failure to install backflow prevention assemblies as requested by the water system, or there are deficiencies in the installation from failure to conform to the installation criteria specified in this chapter, or from deterioration, then the cross-connection control manager/coordinator or designee shall issue a written notice of failure or deficiency (within fourteen (14) days). The time limit is dependent on risk of contamination and may not be greater than ninety (90) days. (Ord. #350, March 2010)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. GAS.

CHAPTER 1

GAS

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Gas shall be provided to the City of Decherd and its inhabitants under franchise. The rights, powers, duties, and obligations of the City of Decherd and its inhabitants, are stated in the agreement between the parties.¹ (1993 Code, 19-101)

¹The ordinance relating to the gas franchise agreement, and any amendments, is available in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. MUTUAL AID AGREEMENTS.
2. SYNTHETIC DRUGS.
3. EPHEDRINE AND PSEUDOEPHEDRINE REGULATIONS.

CHAPTER 1

MUTUAL AID AGREEMENTS¹

SECTION

20-101. Rules and regulations for mutual aid agreements.

20-101. Rules and regulations for mutual agreements. The following information shall be added to each of the mutual aid agreements for each department within the City of Decherd.

(1) When the City of Decherd personnel are sent to another jurisdiction pursuant to a mutual aid agreement, the jurisdiction, authority, rights, privileges, and immunities, including coverage under the worker's compensation laws, which they have in the sending personnel shall be extended to and include the area in which like benefits and authorities are or could be extended to any geographic area necessary as a result of the request when said personnel are acting within the scope of the authority conferred by this agreement.

(2) The party who requests mutual aid shall in no way be deemed liable or responsible for the personal property of the members of the City of Decherd personnel which may be lost, stolen, or damaged while performing their duties in responding under the terms of this agreement.

(3) The City of Decherd shall assume all liability and responsibility for damage to its own apparatus and/or equipment. The City of Decherd shall also assume all liability and responsibility for any damage caused by its own equipment or negligence of its personnel while en route to or returning from a specific location.

(4) The City of Decherd, under the terms of a mutual aid agreement, shall assume no responsibility or liability for property damaged or destroyed or bodily injury at the actual scene of any emergency due to actions which are required in responding under this agreement; said liability and responsibility

¹Municipal code reference

Mutual aid agreements: §§ 6-109, 16-114, and 18-107.

shall rest solely with the requesting agency/government such assistance and within whose boundaries the property exists or the incident occurs.

(5) The City of Decherd agrees that no claim for compensation will be made by either against the other for loss, damage, or personal injury occurring in consequence of mutual aid assistance rendered under this agreement, and all such rights or claims are hereby expressly waived.

(6) The senior officer/employee in whose community the emergency exists, and who places the request for assistance, shall in all instances be in command of the emergency as to strategy, tactics, and overall direction of the operations. All orders or directions regarding the operations of the responding party shall be relayed to the senior officer/employee in command of the City of Decherd.

(7) The program shall be administered by the respective department commissioner with the assistance of the city recorder who shall have the responsibility of carrying out the powers designated herein.

(8) No property, real or personal, tangible or intangible, shall be acquired or held by or through this agreement, it being the intent of the agreement that each political jurisdiction shall use and employ its own properties in carrying out the functions and responsibilities designated herein.

(9) This agreement shall continue from year to year from passage unless notice of termination is given by either party hereto at least sixty (60) days prior to July 1 of each year. No further obligations or liability shall be imposed after such termination.

(10) Any mutual aid agreement with other local governments shall be valid only:

(a) When it is executed by the mayor/county executive of the respective political jurisdictions pursuant to the ordinance/resolution of each jurisdiction authorizing the mayor/county executive to execute it; and

(b) This agreement is subject to the approval or disapproval of any officer or agency of the state government having constitutional or statutory powers of control as to all matters within his or its jurisdiction, pursuant to *Tennessee Code Annotated*, § 12-9-106, if a state agency is party hereto. (1993 Code, § 20-101)

CHAPTER 2

SYNTHETIC DRUGS

SECTION

- 20-201. Definitions.
- 20-202. Prohibited conduct.
- 20-203. Exception.
- 20-204. Violations and penalty.

20-201. Definitions. (1) "Administer." As used in this section, shall mean the direct application of a synthetic drug as defined herein, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (a) A practitioner or by the practitioner's authorized agent in the practitioner's presence; or
- (b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Agent." As used in this section shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. "Agent" does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(3) "Deliver" or "Delivery." As used in this section, shall mean the actual, constructive, or attempted transfer from one person to another of a synthetic drug as defined herein, with or without any consideration, and whether or not there is an agency relationship.

(4) "Dispense." As used in this section, shall mean to deliver a synthetic drug as defined herein to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(5) "Distribute." As used in this section, shall mean to deliver other than by administering or dispensing a synthetic drug as defined herein.

(6) "Manufacture." As used in this section, shall mean the production, preparation, propagation, compounding, conversion, or processing of any synthetic drug as defined herein, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that the term "manufacture" shall not include the preparation, compounding, packaging, or labeling of any synthetic drug as defined herein by:

- (a) A practitioner as an incident to administering or dispensing any synthetic drug as defined herein in the course of professional practice; and

(b) A practitioner, or an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(7) "Person." As used in this section, shall mean any individual, corporation, partnership, trust, estate, association, organization, business, or any other legal entity.

(8) "Possess" or "possession." As used in this section, shall mean either actual possession or constructive possession.

(a) "Actual possession." As used in this section shall mean the exercise of direct physical control or dominion over an object.

(b) "Constructive possession," As used in this section, shall mean the power and intent to exercise control over an object although not in actual physical possession of an object. Possession may be sole or joint and may be inferred from all relevant facts surrounding the circumstances.

(9) "Practitioner." As used in this section, shall mean:

(a) A physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator, or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee.

(10) "Production." As used in this section, shall mean the planting, cultivating, tending, growing, or harvesting of a synthetic drug as defined in this section.

(11) "Sell" or "sale." As used in this section, shall mean a bargained for or agreed upon offer and acceptance and an actual or constructive transfer or delivery of a synthetic drug as defined herein.

(12) "Synthetic drug." As used in this section, shall mean:

(a) Any substance, however denominated, and no matter the common street, brand, or trade name of such substance, containing one or more of the following chemicals:

(i) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia dininorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;

(ii) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3(2methyloctan-2yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol (some trade or other names being: HU-210);

- (iii) 1-Pentyl-3-(1naphthoyl) indole (some trade or other names being: JWH-018);
- (iv) 1-Butyl-3-(1naphthoyl) indole (some trade or other names being: JWH-073);
- (v) 1-(3{trifluoromethylphenyl}) piperazine (some trade or other names being: TFMPP);
- (vi) 3, 4-methylenedioxyprovalerone (MDPV), (some trade or other names being: MDPK);
- (vii) 4 - methylmethcathinone (Mephedrone);
- (viii) 3, 4 - methylenedioxymemethcathinone (Methylone);
- (ix) 3 - methoxymethcathinone;
- (x) 4 - methoxymethcathinone;
- (xi) 3 - fluoromethcathinone; and/or
- (xii) 4 - fluoromethcathinone.

(b) Any other substance which mimics the effects of any controlled substance (to include, but not limited to, any opiates, opium derivatives, hallucinogenic substances, methamphetamine, MDMA, cocaine, PCP, marijuana, cannabis, cannabinoids, cannabicyclohexanol, and tetrahydrocannabinols), to include, but not limited to, "bath salts," "plant food," "incense," or "insect repellent," but excluding legitimate bath salts containing as the main ingredient the chemicals sodium chloride (sea salt) and/or magnesium sulfate (Epsom salt), or legitimate plant foods or insect repellent not intended for human consumption, or legitimate incense used as an odor elimination product.

(c) Any similar substances to the above which when inhaled, or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or in any manner, changes, distorts, or disturbs the auditory, visual, or mental process, and the product or substance has no other apparent legitimate purpose for consumers. (Ord. #361, Dec. 2011)

20-202. Prohibited conduct. (1) It shall be unlawful for any person to use, possess, sell, deliver, distribute, transport, transfer, trade, barter, exchange, or purchase any synthetic drug as defined herein, or to attempt to use, possess, sale, deliver, distribute, transport, transfer, trade, barter, exchange, or purchase any synthetic drug as defined herein, within the city corporate limits.

(2) It shall be unlawful for any person to publicly display for sale any synthetic drug as defined herein, within the city corporate limits. (Ord. #361, Dec. 2011)

20-203. Exception. An act otherwise prohibited and unlawful under this section shall not be unlawful if done by or under the direction of a "practitioner" as defined herein, provided such act is otherwise permitted by

general law, or to otherwise prohibit substances regulated as controlled substances by the United States Food and Drug Administration or the Drug Enforcement Administration, and is not intended to and shall not be construed to supersede any other federal or state law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws in so far as lawfully permitted. (Ord. #361, Dec. 2011)

20-204. Violations and penalty. Any City of Decherd sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citations so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if he cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in city court on a specific day and at a specific hour stated upon the citation; and the time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citations issued for a violation of any of the provisions of this section shall be tried in the city court. The city court judge shall determine whether a defendant has committed a violation of this section. The city shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or "no contest" to the alleged violation, or is found guilty by the city court judge, the city court judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any synthetic drug as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or "no contest" to the alleged violation, or who is found guilty by the city court judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administrative fee to the city in an amount to recoup the cost incurred by the city law enforcement agency for any chemical test conducted by or at the request of the law enforcement agency that is used to determine the chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law. (Ord. #361, Dec. 2011)

CHAPTER 3

EPHEDRINE AND PSEUDOEPHEDRINE REGULATIONS

SECTION

20-301. Definitions.

20-302. Restrictions on public access to ephedrine products.

20-303. Exception.

20-304. Reporting theft of ephedrine products.

20-305. Penalty and injunctive relief.

20-306. Violations and penalty.

20-301. Definitions. As used in this section, the following words and/or phrases shall have the following meanings as set forth herein.

(1) "Ephedrine." All forms of ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, phenylpropanolamine, and all other combinations of these chemicals.

(2) "Ephedrine product." Any product that contains ephedrine, its salts, isomers, or salts of isomers, as its sole active ingredient or in combination with less than therapeutically significant quantities of other active ingredients.

(3) "Package." Any number of pills, tablets, capsules, caplets, or individual units of a substance held within a container intended for sale.

(4) "Person." Any individual, corporation, partnership, trust, limited liability company, firm, association, or other entity selling an ephedrine product to customers.

(5) "Sell." To knowingly furnish, give away, exchange, transfer, deliver, surrender, or supply, whether for monetary gain or not. (Ord. #372, June 2013)

20-302. Restrictions on public access to ephedrine products. It shall be illegal to sell, deliver, or distribute ephedrine, pseudoephedrine, their salts, their optical isomers or salts of their optical isomers, without a valid prescription from a physician or other healthcare professional licensed by the State of Tennessee to write prescriptions and filled by a Tennessee-licensed pharmacist. (Ord. #372, June 2013)

20-303. Exception. The prohibition contained in § 20-402 shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing natural occurring or herbal ephedra and extract of ephedra. (Ord. #372, June 2013)

20-304. Reporting theft of ephedrine products. (1) Any person who sells ephedrine products and who discovers a theft, disappearance, or other loss of an ephedrine product shall report the theft, disappearance, or loss in writing

to the Decherd Police Department within twenty-four (24) hours of such a discovery.

(2) Any person who sells ephedrine products shall report to the Decherd Police Department any difference between the quantities of ephedrine products shipped and the quantity of ephedrine products received within twenty-four (24) hours of discovery. (Ord. #372, June 2013)

20-305. Penalty and injunctive relief. (1) Each violation of this chapter shall be considered a separate offense.

(2) The city administrator may institute an action for injunctive relief to enforce the provisions of this chapter.

(3) Every act or omission constituting a violation of any of the provisions of this chapter by any agent or employee of any person shall be deemed and held to be the act of such person, and said person shall be punishable in the same manner as if said act or omission had been done or omitted by him or it personally, provided such an act or omission was within the scope of employment or the scope of authority of such agent or employee. (Ord. #372, June 2013)

20-306. Violations and penalty. Any City of Decherd sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citations so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if the person cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in city court on a specific day and at a specific hour stated upon the citation; and the time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citations issued for a violation of any of the provisions of this section shall be tried in the city court. The city court judge shall determine whether a defendant has committed a violation of this section. The city shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or "no contest" to the alleged violation, or is found guilty by the city court judge, the city court judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any ephedrine as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or "no contest" to the alleged violation, or who is found guilty by the city court judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administrative fee to the city in an amount to recoup the cost incurred by the city law enforcement agency for any chemical test conducted by or at the request of the law enforcement agency that is used to determine the

chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law. (Ord. #372, June 2013)

APPENDIX A
 PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH
 PROGRAM PLAN FOR THE EMPLOYEES OF City of Decherd.

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of Decherd.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Board of Mayor and Aldermen in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- a. COMMISSIONER OF LABOR and Workforce Development means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. EMPLOYER means the City of Decherd and includes each administrative department, board, commission, division, or other agency of the City of Decherd.
- c. SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or SAFETY SAFETY DIRECTOR means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of the City of Decherd.
- d. INSPECTOR(S) means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission,

division, or other agency of this employer.

- f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- l. ACT or TOSH Act shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from an unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this Program Plan are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEE'S RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.

- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
 - 1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 - 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 - 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 - 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 - 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 - 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 - 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 - 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 - 9. **The Safety Director shall, in the eventuality that there is a fatality, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours. All work-related inpatient hospitalizations, amputations, and loss of an eye must be reported to TOSHA within 24 hours.**
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
 - 1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
 - 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
 - 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 - 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 1. The employer:
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has as effective Program Plan for coming into compliance with the standard as quickly as possible.
 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.

- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov and type Recordkeeping Forms in the search box.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01-03, as authorized by T.C.A., Title 50.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following

receipt of the complaint explaining decisions made and action taken or to be taken.

- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

a. Safety Director and/or Compliance Inspector(s):

- 1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
- 2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

- 1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
- 2. Instruct employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.
- 3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
- 4. Instruct all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
- 5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

- iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this Ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 - 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 - 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:

1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMEDIATE DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of immediate danger shall be handled in accordance with the following procedures:
1. The Safety Director shall immediately be informed of the alleged immediate danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 2. If the alleged immediate danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged immediate danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an immediate danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the immediate danger exists, or his authorized representative, shall be responsible for determining the manner in which the immediate danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 5. The immediate danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the immediate danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the Safety Director describing in detail the immediate danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
1. Any refusal to abate an immediate danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds

that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:

1. Issue an abatement order to the head of the worksite.
 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
1. The standard, rule, or regulation which was found to violated.
 2. A description of the nature and location of the violation.
 3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety Safety Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

Safety Director, Dennis Doney

Date: _____

Occupational Safety and Health

APPENDIX - I WORK LOCATIONS
(ORGANIZATIONAL CHART)

{For this section make a list of each work location wherein (City/County/etc) your employees work, such as Street Department, Fire Hall, City Hall, Courthouse, Jail, Sheriff Department, Each School, etc. covered under this Program Plan. Include, the address for the workplace, phone number at that workplace, and number of employees who work there.}

Decherd City Hall - 6 employees

1301 W. Main St.

Decherd, TN. 37324

931-967-5181

Decherd Police Department – 16 employees

1301 W. Main St.

Decherd, TN. 37324

931-962-1675

Decherd Street Department – 9 employees

313 4th Avenue S.

Decherd, TN. 37324

931-361-5048

Decherd Fire Department Hall #1 – 6 employees

101 S. Bratton St.

Decherd, TN. 37324

931-967-4339

Annex Building/ Fire Hall # 2 – 2 employees

317 4th Avenue S.

Decherd, TN. 37324

931-967-4339

Decherd Water Plant – 5 employees

102 E. Broad St.

Decherd, TN. 37324

931-361-0546

Decherd Wastewater Treatment Plant – 6 employees

325 4th Avenue S.

Decherd, TN. 37324

931-361-0992

TOTAL NUMBER OF EMPLOYEES: 52

{Once each work location has been listed, record the total number of employees that the county employees.}

APPENDIX – II NOTICE TO ALL EMPLOYEES

NOTICE TO ALL EMPLOYEES OF THE CITY OF DECHERD.

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or the City Administrator.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the Safety Director and the City Administrator for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of Decherd is available for inspection by any employee at Decherd City Hall Administrator's Office during regular office hours.

Mayor, Michael Gillespie

Date: _____

APPENDIX - III PROGRAM PLAN BUDGET

(Either answer questions 1-11 or fill in the statement below)

1. Prorated portion of wages, salaries, etc., for program administration and support.
2. Office space and office supplies.
3. Safety and health educational materials and support for education and training.
4. Safety devices for personnel safety and health.
5. Equipment modifications.
6. Equipment additions (facilities)
7. Protective clothing and equipment (personnel)
8. Safety and health instruments
9. Funding for projects to correct hazardous conditions.
10. Reserve fund for the Program Plan.
11. Contingencies and miscellaneous,

TOTAL ESTIMATED PROGRAM PLAN FUNDING,
ESTIMATE OF TOTAL BUDGET FOR:

OR Use This Statement:

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the City of Decherd has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

APPENDIX – IV ACCIDENT REPORTING PROCEDURES

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Safety Director as soon as possible, but not later than twenty-four (24) hours after the occurrence. Such reports may be verbal or in writing. All fatalities, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Safety Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. All fatalities, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Safety Director and/or record keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities, inpatient hospitalizations, amputations, and losses of an eye shall be reported to the Safety Director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves a fatality, hospitalization, amputation, loss of an eye, loss of consciousness, broken bones, or third degree burns, the Safety Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Section V. ADMINISTRATION, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

ORDINANCE NO 407

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF DECHERD, TENNESSEE.

WHEREAS some of the ordinances of the City of Decherd 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 Decherd, 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 "Decherd Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF DECHERD, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the City of Decherd 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 "Decherd Municipal Code," hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing 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, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.¹

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

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

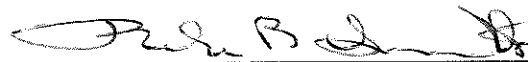
Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date

Passed 1st reading May 14, 2018.
Passed 2nd reading June 11, 2018
Passed 3rd reading July 9, 2018



ROBIN SMITH, MAYOR



REX CLARK, CITY ADMINISTRATOR

