THE

MOUNTAIN CITY

MUNICIPAL

CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

March 1994

TOWN OF MOUNTAIN CITY, TENNESSEE

MAYOR

Kevin Parsons

VICE MAYOR

Kenny Icenhour

ALDERMEN

Lawrence Keeble
Bob Morrison
Willis Walker

RECORDER

Terry G. Reece

Preface

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

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

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

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

(2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the town agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

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

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

The able assistance of Mrs. Tracy G. Gardner, the MTAS Sr. Word Processing Specialist who did all the typing on this project, is gratefully acknowledged.

Steve Lobertini
Codification Specialist

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN CHARTER

The ordinance adoption procedures for the Town of Mountain City are set out as follows precisely as they appear in Article V of the town charter:

Section 5. Ordination clause, etc. Be it further enacted, That all ordinances shall begin with an enacting clause as follows: "Be it ordained by the Town of Mountain City, Tennessee" and shall at the end contain the following provision: "This ordinance shall take effect from and after its passage, the welfare of the Town requiring it."

Section 6. Requisites for a valid ordinance. Be it further enacted, That no ordinance shall become effective until it shall have been passed at two (2) separate meetings of the Board of Mayor and Aldermen, the final passage or adoption thereof being at least one week after the first passage. Only the caption of ordinances shall be required to be read at both meetings. During the time between the first and second readings of an ordinance, the ordinance shall be kept on file in the office of the town recorder for public inspection. After final passage of an ordinance it shall be signed in open meeting by the mayor, and the minutes of the meeting shall reflect that it was so signed, together with the date of the signature. The vote on every ordinance shall be solely by voice vote, and the town recorder shall show in the minutes how each member of the Board voted. The recorder shall keep a set of ordinances signed by the mayor in a separate and permanent book readily accessible to the public.

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER
1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN[2]

SECTION
1-101. Time and place of regular meetings.
1-102. Order of business.
1-103. General rules of order.
1-104. Compensation.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 6:30 P.M. on the first Tuesday of each month at town hall. (1978 Code, § 1-101)

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[1]Charter references
See the charter index, the charter itself, and footnote references to the charter in the front of this code.
Municipal code references
Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14.

[2]Charter references
General powers: art. VI.
Election, term of office: art. IV, § 1.
Meetings, quorum: art. V.
Qualifications: art. IV, § 2.
Oath: art. IV, § 4.
Tie vote: art. IV, § 3.
Vacancies in office: art. IV, § 5.

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

(1) Call to order by the mayor.

(2) Roll call by the recorder.

(3) Reading of minutes of the previous meeting by the recorder, and approval or correction.

(4) Grievances from citizens.

(5) Communications from the mayor.

(6) Reports from committees, members of the board of mayor and aldermen, and other officers.

(7) Old business.

(8) New business.

(9) Adjournment. (1978 Code, § 1-102)

1-103. General rules of order.[1] The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1978 Code, § 1-103)

1-104. Compensation**.** The compensation of the members of the Board of Mayor and Aldermen of Mountain City shall be set at one hundred dollars ($100.00). (as added by Ord. #1053, July 2006)

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[1]Charter reference

Rules of order: art. V, § 4.

CHAPTER 2

MAYOR[1]

SECTION
1-201. Generally supervises town's affairs.
1-202. Executes town's contracts.
1-203. Compensation.

1-201. Generally supervises town's affairs. The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1978 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1978 Code, § 1-202)

1-203. The compensation of the Mayor of Mountain City shall be set at two hundred dollars ($200.00) per month. (as added by Ord. #1053, July 2006)

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[1]Charter references
Duties of the mayor: art. VII.

CHAPTER 3

RECORDER[1]

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, and with such surety as may be acceptable to, the board of mayor and aldermen. (1978 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1978 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the Town of Mountain City which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall keep the original volume of the Mountain City Municipal Code is his custody at all times except in those instances where it is required for litigation in courts. He shall also be responsible for maintaining all corporate bonds, records and papers in such fireproof vault or safe as the municipality shall provide. (1978 Code, § 1-303)

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[1]Charter references
Duties of the recorder: art. VIII.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER
1. RECREATION ADVISORY BOARD.
2. ARTS AND PERFORMING ARTS ADVISORY BOARD.

CHAPTER 1

RECREATION ADVISORY BOARD

SECTION
2-101. Creation; delegation of authority.
2-102. Membership; terms; vacancies.
2-103. Appointment of initial board members.

2-101. Creation; delegation of authority. There is hereby created pursuant to T.C.A. 11-24-103(b)(1), a Recreation Advisory Board to the Town of Mountain City, Tennessee. The affairs of the advisory board shall be conducted in a manner to be determined by the Board of Mayor and Aldermen of the Town of Mountain City, Tennessee, by resolution. The recreation advisory board shall advise the Board of Mayor and Aldermen of the Town of Mountain City, Tennessee, in the conduct of its park's recreation facilities and recreation programs, and may advise the board of mayor and aldermen on any of these or related matters on a case by case basis if so authorized by the board of mayor and aldermen. (Ord. No. 888, § 1, May 1994)

2-102. Membership; terms; vacancies. The recreation advisory board shall consist of seven (7) members which shall be appointed by the Board of Mayor and Aldermen of the Town of Mountain City, Tennessee, and shall serve in staggered terms with three (3) members serving initial terms of one (1) year each, and four (4) members serving initial terms of two (2) years each. The members of such board shall serve without pay. Vacancies in such board shall be filled for the unexpired term and shall be by appointment by the Board of Mayor and Aldermen of the Town of Mountain City, Tennessee. (Ord. No. 888, § 2, May 1994, as amended by Ord. #903, § 1, Jan. 1998)

2-103. Appointment of initial board members. The following individuals are hereby appointed and shall act as the initial members of the recreation advisory board and for the term set forth after their names:

Joe Savery	One (1) year term
John Bellamy	One (1) year term

Johnny Arnold	One (1) year term
Doug Hornsby	Two (2) year term
Joan Trathen	Two (2) year term
Jerry Whitner	Two (2) year term
Russell Love	Two (2) year term (Ord. No. 888, § 3, May 1994,

as amended by Ord. #903, § 2, Jan. 1998)

CHAPTER 2

ARTS AND PERFORMING ARTS ADVISORY BOARD

SECTION
2-201. Creation; delegation of authority.
2-202. Membership; terms; vacancies.
2-203. Appointment of initial board members.

2-201. Creation; delegation of authority. There is hereby created an Arts and Performing Arts Advisory Board to the Town of Mountain City, Tennessee. The affairs of the advisory board shall be conducted in a manner to be determined by the Board of Mayor and Alderman of the Town of Mountain City, Tennessee, by resolution. The advisory board shall advise the Board of Mayor and Alderman of the Town of Mountain City, Tennessee, in the conduct of the theater facilities and arts programs, and may advise the board of mayor and alderman on any of these or related matters on a case by case basis if so authorized by the board of mayor and alderman. (As added by Ord. #908, Dec. 1998)

2-202. Membership; terms; vacancies. The arts and performing arts advisory board shall consist of five (5) members, which shall be appointed by the Board of Mayor and Alderman of the Town of Mountain City, Tennessee, and shall serve in staggered terms with two (2) members serving initial terms of one (1) year each, and three (3) members serving initial terms of two (2) years each. After this initial term members shall serve for a term of two (2) years each. the members of such board shall serve without pay. Vacancies in such board shall be filled for the unexpired term and shall be appointed by the Board of Mayor and Alderman of the Town of Mountain City, Tennessee. (As added by Ord. #908, Dec. 1998)

2-203. Appointment of initial board members. The following individuals are hereby appointed and shall act as the initial members of the arts and performing arts advisory board for the term set forth after their names:

Evelyn Cook 1 year term
Dorothy Howard 1 year term
Robert Glenn 2 year term
Judy McGuire 2 year term
John Payne 2 year term (As added by Ord. #908, Dec. 1998)

TITLE 3

MUNICIPAL COURT[1]

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

CHAPTER 1

TOWN JUDGE

SECTION
3-101. Town judge.

3-101. Town judge. The officer designated by the board of mayor and aldermen to handle judicial matters within the municipality shall preside over the town court and shall be known as the town judge. (1978 Code, § 1-501, modified)

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[1]Charter references
Appointment of judge: art. VI, § 1(25).
Recorder as judge: art. VIII.

CHAPTER 2

COURT ADMINISTRATION

SECTION
3-201. Maintenance of docket.
3-202. Imposition of fines, penalties, and costs.
3-203. Disposition and report of fines, penalties, and costs.
3-204. Disturbance of proceedings.

3-201. Maintenance of docket. The town judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (1978 Code, § 1-502)

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

In all cases heard or determined by him, the town judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions[1] for similar work in state cases. (1978 Code, § 1-508)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the town judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1978 Code, § 1-511)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1978 Code, § 1-512)

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[1]State law reference
Tennessee Code Annotated, section 8-21-401.

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION
3-301. Issuance of arrest warrants.
3-302. Issuance of summonses.
3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.[1] The town judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1978 Code, § 1-503)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the town judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the town 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. (1978 Code, § 1-504)

3-303. Issuance of subpoenas. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1978 Code, § 1-505)

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[1]State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION
3-401. Appearance bonds authorized.
3-402. Appeals.
3-403. Bond amounts, conditions, and forms.

3-401. Appearance bonds authorized. When the town judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the town judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not under the influence of alcohol or drugs. (1978 Code, § 1-507)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days[1] next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1978 Code, § 1-509)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the town court shall be in such amount as the town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars ($250.00), and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county. No other type bond shall be acceptable. (1978 Code, § 1-510)

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[1]State law reference
Tennessee Code Annotated, section 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER
1. SOCIAL SECURITY.
2. PERSONNEL REGULATIONS.
3. REMOVAL OF PERSONNEL.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. INFECTIOUS DISEASE CONTROL POLICY.
6. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

SOCIAL SECURITY

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

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the Town of Mountain City to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-701)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1978 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1978 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1978 Code, § 1-704)

4-105. Records and reports. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-705)

CHAPTER 2

PERSONNEL REGULATIONS[1]

SECTION
4-201. Definitions.
4-202. Coverage.
4-203. Recruitment.
4-204. Emergency appointments.
4-205. Transfers.
4-206. Promotions.
4-207. Demotions.
4-208. Compensation.
4-209. Attendance.
4-210. Acceptance of gratuities.
4-211. Outside employment.
4-212. Political activity.
4-213. Use of municipal time, facilities, etc.
4-214. Use of position.
4-215. Strikes and unions.
4-216. Holiday leave.
4-217. Vacation leave.
4-218. Sick leave.
4-219. Occupational disability or injury leave.
4-220. Leave without pay.
4-221. Prohibitions.
4-222. Separations.
4-223. Disciplinary action.
4-224. Drug and alcohol policy.
4-225. Trip/travel reimbursement.
4-226. Sexual harassment.
4-227. Special note.
4-228. Amendment of personnel rules.
4-229. Pagers and other electronic communications devices.

4-201. Definitions. As used in these rules the following words and terms shall have the meanings listed:

(1) "Absence without leave." An absence from duty which was not authorized or approved.

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[1]The cover sheet of the Personnel Rules and Regulations Ordinance, Town of Mountain City, contains the following statement: "All Employees are At-Will Employees with the exception of the three appointed positions of City Recorder, Chief of Police and the Public Works Superintendent."

(2) "Applicant." An individual who has applied in writing on an application form for employment.

(3) "Appointment." The offer to and acceptance by a person of a position either on a regular or temporary basis.

(4) "At-will-employees." All employees with the exception of the three appointed positions as specified by the city charter, which are city recorder, chief of police, and superintendent of public works.

(5) "Department." The primary organizational unit which is under the immediate charge of a department head who reports directly to the board of mayor and aldermen.

(6) "Dismissal." A type of disciplinary action which separates an employee from the payroll.

(7) "Employee." An individual who is legally employed and is compensated through the payroll.

(8) "Full-time employees." Individuals who work the equivalent of forty (40) hours or more per week.

(9) "Immediate family." Spouse, children, brother, sister, parents, step-parent, mother and father-in-law, grandparents.

(10) "Lay-off." The involuntary nondisciplinary separation of an employee from a position because of shortage of work, materials, or funds.

(11) "Maternity leave." An absence due to pregnancy, childbirth, or related medical conditions which shall be treated the same as sick leave.

(12) "Occupational disability or injury leave." An excused absence from duty because of an injury or illness sustained in the course of employment and determined to be compensable under the provisions of the Worker's Compensation Law.

(13) "Officer." Anyone who has independent discretionary judgment.

(14) "Overtime." Authorized time worked by an employee in excess of normal working hours or work period.

(15) "Overtime pay." Compensation paid to an employee for overtime work performed in accordance with these rules.

(16) "Seniority." Length of service as a regular employee in the classified service.

(17) "Sick leave." An absence approved by the department head or supervisor due to non-occupational illness or injury.

(18) "Supervisor." Any individual having authority on behalf of the municipality to assign, direct, or discipline other employees, if the exercise of such authority is not a mere routine or clerical nature, but requires the use of independent judgment.

(19) "Temporary employee." An employee holding a position other than permanent, which is of a temporary, seasonal, casual, or emergency nature.

(20) "Work day or work period." Scheduled number of hours an employee is required to work per day or per scheduled number of days. (Ord. of # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-202. Coverage. These rules shall apply only to the classified service unless otherwise specifically provided or necessarily implied. The classified service shall include all full-time positions which are not specifically placed in the exempt service. The exempt service shall include the following:

(1) All elected officials and persons appointed to fill vacancies in elective offices.

(2) All members of appointive boards, commissions, or committees.

(3) City attorney, city recorder, police chief, and supervisor of public works.

(4) Consultants, advisors, and counsel rendering temporary professional service.

(5) Independent contractors.

(6) Temporary employees who are hired to meet the immediate requirements of an emergency condition.

(7) Seasonal employees who are employed for not more than three (3) months during the fiscal year.

(8) Persons rendering part-time service.

(9) Volunteer personnel, such as volunteer firefighters; and all other personnel appointed to serve without compensation. (Ord. of # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-203. Recruitment. Individuals shall be recruited in a manner to assure obtaining well-qualified applicants for the various types of positions. In cases where residents and non-residents are equally qualified for a position, the resident shall receive first consideration.

(1) Policy statement - The primary objective of this hiring policy is to insure compliance with the laws and to obtain qualified personnel to serve the citizens of the town. Appointments to positions are based on merit, technical knowledge and work experience and no person shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of race, sex, age, color, religion, creed, ancestry, disability status or national origin.

(2) Recruitment - The town will employ only capable and responsible personnel who are of good character and reputation. When a vacancy occurs the city recorder, in cooperation with the respective department head, will prepare and place notice of the position vacancy.

(3) Application process - All persons seeking employment with the town shall complete a standard application form as provided by the town. The city recorder will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

(4) Medical/agility examination - For certain positions, the employee may be required to undergo a physical agility examination in order to determine the employees ability to perform the essential functions of the job. The city recorder or appropriate department head will make reasonable accommodations

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

After a job offer has been made, prospective employees in certain classes may be required to undergo a medical examination by a competent examiner designated by the town. Medical examinations shall be at no expense to the employee.

(5) Appointments - Appointments shall be made by the board of mayor and aldermen from those applicants who have been determined to have the required qualifications. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-204. Emergency appointments. In an emergency, the mayor may authorize the appointment of any person to a position to prevent stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed 30 days in any 12-month period. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-205. Transfers. Any employee who has successfully completed the probationary period may be transferred to the same or similar position in a different department without being subject to a probationary period. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-206. Promotions. Vacancies in positions above the entrance level shall be filled by promotion whenever it is in the best interest of the municipality to do so. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-207. Demotions. An employee may be demoted to a position of lower grade. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-208. Compensation. (1) Wages - Wages for all employees shall be determined by the mayor and board of aldermen.

(2) Hours of work - The board of mayor and aldermen shall establish hours of work per week for each position, based on the needs of service, and taking into account the reasonable needs of the public that may be required to do business with various departments.

(3) Meal periods - If an employee works five hours or more per shift, he or she must take a 30 minute meal break unless specifically excused by his/her immediate supervisor. This does not apply to police officers or dispatchers. Meal breaks are not considered as hours worked.

(4) Work week/work periods - Pursuant to the Fair Labor Standards Act, an employee work period is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. Except as provided in special contracts of employment, public safety employees working under the FLSA 7 (k) exemption and employees exempt from FLSA requirements, employees work 40

hours during the work period. The work period begins at 12:00 midnight on Sunday and ends at 12:00 midnight the Sunday following. Work schedules may vary in departments as necessary for the smooth operation of the town.

Police officers shall have a 28 day work period in accordance with the 7(k) exemption provided under FLSA. The work period begins at 12:00 midnight on Sunday and ends at 12:00 midnight 28 days following.

(5) Overtime - Overtime may be authorized by prior approval of the department head or the town recorder. Employees required to work overtime shall be compensated in accordance with the Fair Labor Standards Act. All employees called in for overtime shall be guaranteed pay or compensatory time for a minimum of two hours, if the said employees time does not exceed the 2 hour minimum requirement.

In assigning overtime, each department head shall make a list of all employees who desire to be assigned to overtime, and in assigning overtime for non-emergency situations, and insofar as practicable, overtime will be assigned or offered for assignment on a rotating basis to each employee as their name appears on the list.

(6) Pay incentive plan - The board of mayor and aldermen may award a pay incentive plan to employees according to the following:

Employee 5th anniversary	-	$1,000 base salary increase
Employee 8th anniversary	-	$ 500 base salary increase
Employee 12th anniversary	-	$ 500 base salary increase
Employee 16th anniversary	-	$ 500 base salary increase
Employee 20th anniversary	-	$ 500 base salary increase

(Ord. # 850, Nov. 1987; as replaced by Ord. # 896, § 1, Feb. 1997; and as amended by Ord. #909, May 1999)

4-209. Attendance. An employee shall be in attendance at regular work in accordance with these rules and with general department regulations. All departments shall keep daily attendance records of their employees. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-210. Acceptance of gratuities. No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the town for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to town business. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-211. Outside employment. No full-time officer or employee of the town shall accept any outside employment without written authorization from the mayor.

The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the Town of Mountain City. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-212. Political activity. Employees of the town may individually exercise their right to vote and express their political views as citizens. However, employees may not engage in any political activity while at work. Employees may not run for election to the board of mayor and aldermen. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-213. Use of municipal time, facilities, etc. No town officer or employee shall use or authorize the use of town's time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the board of mayor and aldermen has authorized the use of such time, facilities, equipment, or supplies, and the town is paid at such rates as are normally charged by private sources for comparable services. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-214. Use of position. No town officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the Town of Mountain City, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (Ord. #850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-215. Strikes and unions. No town officer or employee shall participate in any strike against the Town of Mountain City, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorized the use of strikes by government employees. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-216. Holiday leave. The following legal holidays shall be observed: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Easter Monday, Veteran's Day, Thanksgiving Day, Day after Christmas, Christmas Day, and such other days as may be designated by the governing body. When a holiday falls on a Saturday or Sunday, the preceding Friday if on Saturday, or following Monday if on Sunday, shall be observed as a holiday for town employees.

Where possible, every town employee shall be given approved holidays as set out in this section. When an employee must work on one of these holidays, he shall receive equivalent time off or, if necessary, double pay for time worked. Department heads shall attempt to arrange working schedules to permit time

off for holidays in preference to extra pay. In order to receive pay or time off for an observed holiday, an employee must not have been absent without leave either on the work day before or after the holiday. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-217. Vacation leave. All permanent employees who have been continuously employed for a period of one (1) year or longer shall be credited with earned vacation leave in accordance with the following schedule:

COMPLETED SERVICE	VACATION CREDIT-PER YEAR
After 1 year	5 work days
After 2nd year	5 work days
After 10th year	10 work days
After 15th year	15 work days
After 16th year	1 additional day for each year of service until they reach 20 days per year

* Maximum Vacation for employee is 20 days per calendar year.

Employees hired during the year of 1987 and hereafter shall abide by the above vacation schedule as set by this chapter.

Grandfather clause. Employees hired prior to the calendar year of 1985, will adhere to the following vacation schedule:

COMPLETED SERVICE	VACATION CREDIT-PER YEAR
After 1 year	5 work days
After 2nd year	10 work days
After 10th year	15 work days
After 15th year	1 additional day for each year of service not to exceed 20 days per year.

Employees hired during the calendar years of 1985-1986 will adhere to the following schedule:

COMPLETED SERVICE	VACATION CREDIT-PER YEAR
After 1 year	5 work days
After 3 years	10 work days
After 15th year	15 work days
After 16th year	1 additional day for each year of service not to exceed 20 days per year.

The above schedule and credits are for uninterrupted service computed from the most recent date of continuous employment. Employees shall accrue vacation leave from their employment date, but shall not be entitled to take vacation until they have completed one (1) year of service. Employees shall request vacation time at least two weeks in advance. Vacation leave may be taken as earned subject to the approval of the department head who shall schedule vacations so as to meet the operational requirements of the department. Employees resigning voluntarily and who give reasonable notice of intention to resign will receive vacation credit earned as of the date of resignation.

Part-time and temporary employees shall not be entitled to vacation leave except when approved by the board of mayor and aldermen.

A record shall be kept, for each officer and employee, up to date at all times showing annual leave taken. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-218. Sick leave. Each full-time employee and officer shall be allowed ten (10) days of sick leave on or before that employee's completion of one (1) full year of continuous service; thereafter, each employee shall in addition be allowed one (1) sick day per calendar quarter, and sick days are to accumulate from year to year. No payment will be made for accrued sick leave upon separation. Sick leave with pay shall be granted for the following reasons: personal illness or physical incapacity resulting from causes beyond the employee's control; illness of a member of the employee's immediate family that required the employee's personal care and attention; enforced quarantine of the employee in accordance with community health regulations; to keep a doctor's appointment; or for a death in the immediate family.

In order to be granted sick leave with pay, an employee must meet the following conditions: notify the immediate supervisor prior to the beginning of the scheduled work day of the reason for absence; submit, if required by the department head, a medical certificate signed by a licensed physician certifying that the employee has been incapacitated for work for the period of absence, the nature of the employee's sickness or injury and that the employee is again physically able to perform duties. A medical statement may be required only if the period of absence is two consecutive days or longer after the use of three (3) sick days in a calendar year.

Sick leave with pay may be taken as necessary, but may not be extended beyond the actual number of sick days at the time of absence. Provided, however, that at the request of the employee any accrued vacation balance may be applied and extended as though it were sick leave. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-219. Occupational disability or injury leave. Occupational disability or injury leave shall be granted employees who sustain an injury or an illness

during the course of their employment which is determined to be compensable under the provisions of the Worker's Compensation Law. Employees on occupational disability leave shall receive such benefits in lieu of pay as are provided by the Worker's Compensation Law. Employees on occupational disability leave who have accrued sick leave may choose to receive full pay and charge disability leave against their accrued sick leave. In this case, any monies received by the employee as a benefit under Workmen's Compensation shall be deposited in original check or draft form with the city recorder. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-220. Leave without pay. A regular employee may be granted a leave of absence without pay for a period not to exceed one year for temporary sickness, disability, or for other good and sufficient reason, or upon written advice of doctor with medical prognosis of patient. Such leaves shall require the prior approval of the board of mayor and aldermen. Any such leave is subject to review by the board of mayor and alderman periodically to ascertain that leave is still justified. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-221. Prohibitions. No person shall be appointed to, or promoted to, or demoted, or dismissed from any position in the classified service, or in any way be favored or discriminated against with respect to employment in the classified service because of race, religion, national origin, political affiliation, handicap, sex, or age.

No person shall seek or attempt to use any political endorsement in connection with any appointment to a position, or demotion, or dismissal from a position in the classified service.

No person shall use or promise to use, directly, or indirectly, any official authority or influence, whether possessed or anticipated, to secure or to attempt to secure for any person an appointment to a position in the classified service, or any increase in wages or other advantage in employment in such position, for the purpose of influencing the vote or political action of any person, or for any other consideration.

No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment or promotion, or any advantage in a position in the classified service. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-222. Separations. All separations of employees from positions in the classified service shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, lay-off, disability, (inability to perform the essential functions of the job with or without reasonable accommodations) death, and dismissal. At the time of separation and prior to final payment, all records, equipment, and other items of municipal property in

the employee's custody shall be transferred to the department head. Any amount due to a shortage in the above shall be withheld from the employee's final compensation.

(1) Resignation. An employee may resign by submitting in writing the reasons and the effective date, to his/her department head as far in advance as possible, but a minimum of two weeks notice is requested. Unauthorized absence from work for a period of three consecutive days may be considered by the department head as a resignation. Department heads shall forward all notices of resignation to the city recorder immediately upon receipt.

(2) Lay-off. The governing body may lay-off any employee when they deem it necessary by reason of shortage of funds or work, the abolition of a position, or other material changes in the duties or organization, or for related reasons which are outside the employee's control and which do not reflect discredit upon service of the employee. Temporary employees shall be laid off prior to probationary or regular employees. The order of lay-off shall be in reverse order.

(3) Disability. An employee may be separated for disability when unable to perform required duties because of a physical or mental impairment which cannot be reasonably accommodated by the town without undue hardship. Action may be initiated by the employee or the municipality, but in all cases it may be supported by medical evidence acceptable to the town recorder. The municipality may require an examination at its expense and performed by a licensed physician of its choice.

(4) Death. Separation will be effective as of the date of death of an employee. All compensation due in accordance with these policies shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-223. Disciplinary action. The following disciplinary actions are meant to serve as guidelines only. There is no requirement that they be used. The Town of Mountain City is an at will employer and these guidelines are in no way meant to establish a property right for employees. The types of disciplinary actions are:

(1) Oral reprimand.

(2) Written reprimand - A written reprimand may be sent to the employee and a copy shall be placed in the employee's personnel folder.

(3) Suspension.

(4) Demotion/dismissal. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-224. Drug and alcohol policy. (1) Notice: The Town of Mountain City has a legal responsibility and management obligation to ensure a safe work environment, as well as paramount interest in protecting the public by ensuring

that its employees have the physical stamina and emotional stability to perform their assigned duties. There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impair an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the town is a crime in this jurisdiction and clearly unacceptable. Employees must be free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.

(2) General rules: (a) Employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employee's licensed physician. The employee shall immediately notify his/her supervisor if such is prescribed, and if the consumption of such is expected to affect the proper performance of the employee's job.

(b) Employees are prohibited from the use, possession and sale of drugs, alcohol or any other controlled substance.

(c) All property belonging to the town is subject to inspection at any time without notice as there is no expectation of privacy.

(i) Property includes, but is not limited to, vehicles, desks, containers, files and storage lockers.

(ii) Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice (unless waived by the city recorder) and in the presence of the employee.

(d) Town employees who have reason to believe another employee is illegally using drugs or narcotics shall report the facts and circumstances immediately to the supervisor.

(3) Drug and alcohol testing policy: The Town of Mountain City has a Drug and Alcohol Testing Policy which is herein referred to by reference. All employees are expected to abide by the contents of the policy. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-225. Trip/travel reimbursement. All trips that involve reimbursement and/or town expense shall not be undertaken without prior approval of the mayor or city recorder. The town's official travel policy, herein incorporated by reference, shall apply to all travel. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-226. Sexual harassment. Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the Town of Mountain City, including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulation of the town, and employees working under contract for the town.

Sexual harassment or unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making inappropriate sex-oriented comments on appearance; telling embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors, fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracting, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the town.

The town will not tolerate the sexual harassment of its employees. The town will take immediate, positive steps to stop it when it occurs. An employee who feels he/she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

(1) The employee's immediate supervisor.

(2) The employee's department head.

(3) The city recorder.

(4) The mayor or an alderman.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint at sexual harassment. The employee should be prepared to provide the following information:

(1) Official's or employee's name, department, and position title.

(2) The name of the person or persons committing the sexual harassment, including their title/s, if known.

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

(4) Witnesses to the harassment.

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

4-227. Special note. These personnel policies are believed to be written within the framework of the charter of the Town of Mountain City, but in case of conflict, the charter takes precedence. Nothing in this document is to be interpreted as a contract, or as giving an employee any more property rights in their jobs than may already be given by the town charter. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-228. Amendment of personnel rules. Amendments or revisions to these rules may be recommended for adoption by the mayor or by any member of the board of mayor and aldermen. Such amendments or revisions of these rules

shall become effective upon adoption by a majority vote of the governing body by ordinance. (Ord. # 850, Nov. 1987, as replaced by Ord. # 896, § 1, Feb. 1997)

4-229. Pagers and other electronic communications devices. Certain employees may be required to carry a pager or other electronic communications device during off-duty hours. Such employees shall make a reasonable effort to respond to pages or other communications as quickly as possible. (as added by Ord. #1037, April 2006)

CHAPTER 3

REMOVAL OF PERSONNEL

SECTION
4-301. Grounds for removal.
4-302. Procedure for removal.
4-303. Conducting the hearing.
4-304. Effect of vote for removal.
4-305. Appeal.
4-306. Exceptions--"at will" employees.

4-301. Grounds for removal. Any appointed official or employee of the Town of Mountain City may be removed from office, or his or her employment terminated by the board of mayor and aldermen for crime or misdemeanor in office, for grave misconduct showing unfitness for public duty, for permanent disability, or for any misconduct which, as a matter of law, constitutes good and sufficient cause for removal, by a majority vote of the board of mayor and aldermen voting for such removal. (1978 Code, § 1-1101)

4-302. Procedure for removal. The proceedings for such removal shall be upon specific charges in writing which may be preferred and filed with the board of mayor and aldermen and which charges shall be served upon the accused personally by any lawful officer by certified mail addressed to the employee's and/or official's own place of residence, or by any other lawful method calculated to give such employee and/or official actual notice of the proceedings.

When the charges has been preferred and filed with the board of mayor and aldermen, the board shall by motion or resolution duly passed, set the time and place of the hearing, and shall give the employee and/or official actual notice of the time and place of the hearing in the manner prescribed in the immediately preceding paragraph. The hearing shall be held not less than ten (10) days from the date upon which notice of the hearing is served upon, or given to the accused employee or official. (1978 Code, § 1-1102)

4-303. Conducting the hearing. The hearing shall be public, and the proceedings thereon shall be duly recorded and the record of the hearing shall be, upon request of any member of the board of mayor and aldermen, or of the accused employee and/or officer be made available to him. The accused shall have the right to appear and defend in person or by counsel and to have such process of the board to compel attendance of witnesses in his behalf as is allowed by law.

The vote of the board on the issue of guilt or innocence of the accused employee or official and of removal from office, shall be determined by yeas and nayes and the names of the members of the board of mayor and aldermen voting

for or against such removal shall be duly entered in the minutes and records of such hearing. (1978 Code, § 1-1103)

4-304. Effect of vote for removal. In the event that the majority of the board of mayor and aldermen, and after hearing all evidence presented by all interested parties, by a majority vote for the removal from office and/or termination of employment of the accused employee and/or official, then the term of office and/or term of employment of such accused official and/or employee shall immediately expire, and his official status, authority, and all other rights appurtenant to such employment shall cease without further action. (1978 Code, § 1-1104)

4-305. Appeal. Any official or employee of the Town of Mountain City removed pursuant to this chapter shall have the right of appeal to the Circuit or Chancery Courts of Johnson County, Tennessee, within the time, and under the provisions of applicable law of the State of Tennessee, except "at-will" employees. (1978 Code, § 1-1105)

4-306. Exceptions--"at-will" employees. All other employees not appointed by the board of mayor and aldermen for a specific term are here stated to be "at-will" employees, and the provisions of this chapter (4-301 et. seq.) shall not in any manner be considered to apply to "at-will" employees of the Town of Mountain City. (1978 Code, § 1-1106)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION
4-401. Title.
4-402. Purpose.
4-403. Definitions.
4-404. Coverage.
4-405. Employer's rights and duties.
4-406. Employee's rights and duties.
4-407. Standards authorized.
4-408. Variances from standards authorized.
4-409. Abatement.
4-410. Inspection.
4-411. Administration.
4-412. Funding program.
4-413. Confidentiality of trade secrets or privileged information.

4-401. Title. This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of Mountain City. (1978 Code, § 1-1001)

4-402. Purpose. The Town of Mountain City, in electing to establish and maintain an effective occupational safety and health program for its employees shall:

(1) Provide a safe and healthful place and condition of employment.

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

(3) Make, keep, preserve and make available to the state commissioner of labor, his designated representative or persons within the agency to whom such responsibilities have been delegated, adequate records of all occupational accidents and personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the state commissioner of labor or his designated representative, with regard to the adequacy of the form and content of records.

(5) Consult with the state commissioner of labor or the state commissioner of public health, as appropriate, regarding safety and health problems of the agency which are considered to be unusual or peculiar to the town and are such that they cannot be achieved under a standard promulgated by the state.

(6) Make an annual report to the state commissioner of labor to show accomplishments and progress of the total occupational safety and health program.

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

(8) 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. (1978 Code, § 1-1002)

4-403. Definitions. For the purpose of the program established pursuant to this chapter:

(1) "Commissioner of Labor" means the chief executive officer of Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor.

(2) "Commissioner of Public Health" means the chief executive officer of the Tennessee Department of Public Health. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of public health.

(3) "Employer" means the town, and shall include each administrative department, commission, board, division or other agency of the town.

(4) "Director of Safety and Health" means the chief executive officer designated by the town to perform duties or to exercise powers assigned so as to plan, develop and administer the towns safety and health program.

(5) "Inspector(s)" means the individual(s) appointed and designated by the director of safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, the inspections shall be conducted by the director of safety and health.

(6) "Appointing Authority" means any town official or group of officials having legally designated powers of appointment, employment, or removal for a specific department, commission, board, division or other agency of the town.

(7) "Employee" means any person performing services for the town and listed on town's payrolls either as part-time, seasonal, or permanent, full-time employees; provided, however, that such definition shall not include independent contractors, their agents, servants, and employees.

(8) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons.

(9) "Standard" means an occupational safety and health standard promulgated by the Tennessee state commissioner of labor or the state commissioner of public health which requires conditions or the adoption or the

use of one or more practices, means, methods, operations or processes necessary or appropriate to provide safe and healthful employment and places of employment.

(10) "Imminent Danger" means any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal enforcement procedures.

(11) "Establishment" or workplace means a single physical location where business is conducted or where services or industrial operations are performed. (1978 Code, § 1-1003)

4-404. Coverage. The provisions of the program shall apply to employees of each administrative department, commission, board, division or other agency of the town. (1978 Code, § 1-1004)

4-405. Employer's rights and duties. The rights and duties of the employer shall include, but are not limited to the following provisions:

(1) Employer shall furnish to each of his employees conditions of employment and a place of employment free from known and recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

(2) Employer shall comply with occupational safety and health standards or regulations promulgated pursuant to the State Occupational Safety and Health Act of 1972.

(3) Employer shall assist the state commissioner of labor and state commissioner of public health in the performance of their monitoring duties by supplying necessary information to the commissioners or to their respective assistants or deputies.

(4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue.

(5) Employer is entitled to request an order granting a variance from an occupation safety and health standard.

(6) Employer shall inspect all installations, departments, bureaus and offices to insure the provisions of this program are complied with and carried out.

(7) 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, of corrective action being taken by the town. (1978 Code, § 1-1005)

4-406. Employee's rights and duties. The rights and duties of employees shall include, but are not limited to the following provisions:

(1) Each employee shall comply with occupational safety and health standards of all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

(2) Each employee shall be notified by the placing upon bulletin boards, or other places of common passage, of any application for a temporary order granting a variance from any standard or regulation.

(3) Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

(4) Any employee may bring to the attention of the person in charge of the program any violation of the standards or other health or safety hazard.

(5) 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 the corrective action being taken.

(6) Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection.

(7) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted any proceedings or inspection under or relating to this program. Any such charges of discrimination are subject to investigation by the commissioner of labor.

(8) Nothing in this chapter or any other provision of this program shall be deemed to authorize or require 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 of others, and except when such medical examination is reasonably required for performance of a specified job. (1978 Code, § 1-1006)

4-407. Standards authorized. The standards adopted by the Town of Mountain City are the State of Tennessee Safety and Health Standards developed under Section 6 of the State Occupational Safety and Health Act of 1972. (1978 Code, § 1-1007)

4-408. Variances from standards authorized. The Town of Mountain City may, upon written application to the state commissioner of labor or the state commissioner of public health, request an order granting a temporary variance from any approved standards. Prior to requesting such temporary variance, the employer shall notify or serve notice to employees or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the town, shall be deemed sufficient notice to employees. (1978 Code, § 1-1008)

4-409. Abatement. The program will provide for administrative procedures for abating hazards. (1978 Code, § 1-1009)

4-410. Inspection. (1) In order to carry out the purposes of this program resolution, the safety and health inspectors are authorized:

(a) To enter at any reasonable time any establishment, plant, or other area, workplace, or environment where work is performed by an employee of the Town of Mountain City and,

(b) To inspect and investigate during regular working hours and at other reasonable times, and 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.

(2) The Town of Mountain City shall establish and maintain a system for collecting, maintaining and reporting safety and health data.

(3) The program shall comply with the record keeping regulations pursuant to the Tennessee Occupational and Safety Act of 1972.

(4) After this chapter has been enacted, the Town of Mountain City, shall report within forty-eight (48) hours, either orally or in writing, to the commissioner of labor any accident which is fatal to one or more employees or which results in the hospitalization of five (5) or more employees. (1978 Code, § 1-1010)

4-411. Administration. For the purposes of this chapter, the board of mayor and aldermen has the authority to designate the director of the safety and health program to perform duties or to exercise powers assigned so as to plan, develop, and administer the town's occupational safety and health program. (1978 Code, § 1-1011)

4-412. Funding program. Sufficient funds for administering this program pursuant to this chapter shall be made available as authorized by the budgeting authority. (1978 Code, § 1-1012)

4-413. Confidentiality of trade secrets or privileged information.

(1) Compliance with any other law, statute or this code which regulates safety and health in employment and places of employment shall not excuse the town or any town employee, or any other person from compliance with the provisions of this program.

(2) Compliance with any provisions of the program pursuant to this resolution or any standard or regulation promulgated pursuant to his program shall not excuse the town or any town employee, or any other person from compliance with any state law, town ordinance or this code regulating and

promoting safety and health unless such law or ordinance is specifically repealed. (1978 Code, § 1-1013)

CHAPTER 5

INFECTIOUS DISEASE CONTROL POLICY

SECTION
4-501. Purpose.
4-502. Coverage.
4-503. Administration.
4-504. Definitions.
4-505. Policy statement.
4-506. General guidelines.
4-507. Hepatitis B vaccinations.
4-508. Reporting potential exposure.
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4-511. Disability benefits.
4-512. Training regular employees.
4-513. Training high risk employees.
4-514. Training new employees.
4-515. Records and reports.
4-516. Legal rights of victims of communicable diseases.

4-501. Purpose. It is the responsibility of the Town of Mountain City to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the Town of Mountain City, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

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

4-502. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

(1) Paramedics and emergency medical technicians;
(2) Occupational nurses;
(3) Housekeeping and laundry workers;

(4) Police and security personnel;
(5) Firefighters;
(6) Sanitation and landfill workers; and
(7) Any other employee deemed to be at high risk per this policy and an exposure determination.

4-503. Administration. This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

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

(2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;

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

(4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;

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

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

(7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and

(8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen.

4-504. Definitions. (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.

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

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

(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through

sexual contact and exposure to infected blood or blood components and perinatally from mother to neonate.

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

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

4-505. Policy statement. All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Center for Disease Control developed the strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

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

4-506. General guidelines. General guidelines which shall be used by everyone include:

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

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

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

(4) All workers shall take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp

items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The town will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or other potentially infectious materials to which universal precautions apply:

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above;

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

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel to provide or potentially provide emergency treatment.

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

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other potentially infectious materials.

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

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

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

(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

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

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

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

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

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

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up.

4-507. Hepatitis B vaccinations. The Town of Mountain City shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator.

4-508. Reporting potential exposure. Town employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

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

(2) Complete the appropriate accident reports and any other specific form required.

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

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

4-509. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

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

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

4-510. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

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

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

4-511. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensations Bureau in accordance with the provisions of T.C.A. 50-6-303.

4-512. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents.

4-513. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy.

4-514. Training new employees. During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work.

4-515. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

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

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

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

4-516. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

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

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

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

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

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

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

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

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

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not

make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

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

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

CHAPTER 6

TRAVEL REIMBURSEMENT REGULATIONS

SECTION
4-601. Travel requests.
4-602. Travel documentation.
4-603. Transportation.
4-604. Lodging.
4-605. Meals and incidentals.
4-606. Miscellaneous expenses.
4-607. Entertainment.
4-608. Travel reconciliation.
4-609. Disciplinary action.

4-601. Travel requests. To ensure reimbursement for official travel, an approved travel authorization form is required. Lack of pre-approval does not prohibit reimbursement, but it does assure reimbursement within the city limits of the city travel policy. All costs associated with the travel should be reasonably estimated and shown on the travel authorization form. An approved authorization form is needed before advanced expenses are paid or travel advances are authorized. A copy of the conference program, if applicable, should be attached to the form. If the program is not available prior to the travel, submit it with the reimbursement form. (as replaced by Ord. #1035, April 2006)

4-602. Travel documentation. It is the responsibility of the authorized traveler to:

(1) Prepare and accurately describe the travel;

(2) Certify the accuracy of the reimbursement request;

(3) Note on the reimbursement form with the necessary supporting documents and original receipts.

The reimbursement form should be filed with the finance department within ten (10) days of return or at the end of the month, whichever is more practical. (as replaced by Ord. #1035, April 2006)

4-603. Transportation. (1) All potential costs should be considered when selecting the modes of transportation. For example, airline travel may be cheaper than automobile when time away form work and increased meal and lodging costs are considered. When time is important, or when the trip is so long that other modes of transportation are not cost-beneficial, air travel is encouraged.

If the traveler goes outside the state by means other than air, the reimbursement will be limited to air fare at tourist or economy class, ordinary expenses during the meeting dates, and one day's meals and motel before and

after the meeting. The traveler will be required to take annual leave for any additional time taken beyond the day before and the day after the meeting dates.

Exceptions: When the traveler extends the trip with personal time to take advantage of discount fares, the reimbursement will be limited to the lesser of the:

(a) Actual expenses incurred'

(b) Amount that would have been incurred for the business portion only. The calculations for the business portion of the trip must be made using the least expensive rates available.

All expenses and savings associated with extending the trip must be submitted with the expense reimbursement form.

(2) Air. When possible, the traveler should make full use of discounts for advance airline reservations and advance registration. The traveler should request conference, government, or weekend rates, whichever is cheaper, when making lodging or rental car reservations. The city will pay for tourist or economy class air travel. The traveler should get the cheapest reasonable fare and take advantage of discount fares. Airline travel can be paid by direct billing to the city.

Mileage credits for frequent flyer programs accrue to the individual traveler. However, the city will not reimburse for additional expenses - such as circuitous routing, extended stays, layovers to schedule a particular carrier, upgrading from economy to first class 0 for travelers to accumulate additional mileage or for other personal reasons.

The city will not reimburse travel by private aircraft unless authorized in advance by the CAD.

(3) Rail or bus. The city will pay for actual cost of ticket.

(4) Vehicles. Automobile transportation may be used when a common carrier cannot be scheduled, when it is more economical, when a common carrier is not practical, or when expenses can be reduced by two (2) or more city employees traveling together.

(a) Personal vehicle. Employees should use city vehicles when possible. Use of a private vehicle must be approved in advance by the CAD. The city will pay a mileage rate not to exceed the rate allowed by the federal or state schedule, whichever the city adopts. The miles for reimbursement shall be paid from origin to destination and back by the most direct route. Necessary vicinity travel related to official city business will be reimbursed. However, mileage in excess of the Rand-McNally mileage must be documented as necessary and business-related. If an indirect route is taken, the Rand-McNally mileage table will be used to determine the mileage to be reimbursed.

If a privately owned automobile is used by two (2) or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It is the responsibility of the

traveler to provide adequate insurance to hold harmless the city for any liability form the use of the private vehicle.

In no event will mileage reimbursement, plus vicinity travel and associated automobile costs, exceed the lowest reasonable available air fare and associated air fare travel costs.

Travelers will not be reimbursed for automotive repair or breakdowns when using their personal vehicle.

(b) City vehicle. The city may require the employee to drive a city vehicle. If a city vehicle is provided, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable business. The employee will be reimbursed for expenses directly related to the actual and normal use of the city vehicle when proper documentations is provided. Out of town repair cost to the city vehicle in excess of one hundred dollars ($100.00) must be cleared with the proper city official before the repair is authorized.

(c) Rental cars. Use of a rental car is not permitted unless it is less expensive or otherwise more practical than public transportation. Approval of car rental is generally required in advance by the CAO. Always request the government or weekend rate, whichever is cheaper. Anyone who uses a rental car for out-of-state travel must obtain liability coverage from the vendor.

(i) Fines for traffic or parking violations will not be reimbursed by the city.

(ii) Reasonable tolls will be allowed when the most direct travel route requires them.

(5) Taxi, limousine, and other transportation fares. When an individual travels by common carrier, reasonable fares will be allowed for necessary ground transportation. Bus or limousine service to and from airports should be used when available and practical. The city will reimburse mileage for travel to and from the local airport and parking fees, provided such costs do not exceed normal taxi/limousine fares to and from the airport. Receipts are required.

For travel between lodging quarters and meetings, conferences, or meals, reasonable taxi fares will be allowed. Remember, original receipts are required for claims of five dollars ($5.00) or more. Transportation to and from shopping, entertainment, or other personal trips is the choice of the traveler and not reimbursable.

Reimbursement claims for taxis, limousines, or other ground transportation must be listed separately on the expense form, claiming the destination and amount of each fare. (as replaced by Ord. #1035, April 2006)

4-604. Lodging. The amount allocated for lodging shall not ordinarily exceed the maximum per diem rates authorized by the federal and state rate schedule, whichever is chosen by the city.

(1) If the city reimburses using the federal rates, the Government Service Administration provides guidelines for determining the maximum that can be reimbursed for lodging. These amounts are available on line at http://policyworks.gov/orgimainimt/homepage/mtt/perdiem/perd05d.html. The rates are the maximum reimbursable rates for hotel rooms plus appropriate taxes.

If the city chooses Tennessee's reimbursement rate, the amount varies according to locations, and does not include appropriate taxes. State rates for travel reimbursement can be found in the state regulations online at http://www.state.tn.us/finance/act/policy8.pdf

(2) Original lodging receipts must be submitted with the reimbursement form. Photocopies are not acceptable.

(3) If a traveler exceeds the maximum lodging per diem, excess costs are the responsibility of the traveler.

(4) If the best rate is secured, and it still exceeds the maximum lodging per diem, the CAO may authorize a higher reimbursement amount.

Even if it costs more, travelers may be allowed to stay at the officially designated hotel of the meeting; however, more moderately priced accommodations must be requested whenever possible. It will be the traveler's responsibility to provide documentation of the "officially designated meeting site" room rates, if these rates are higher than the normal reimbursable amounts.

(5) If two (2) or more city employees travel together and share a room, the lodging reimbursement rate will be the maximum of two (2) single rooms. If an employee shares a room with a nonemployee, the actual cost will be allowed up to the maximum reimbursement amount. The receipt for the entire amount must be submitted with the expense form. (as replaced by Ord. #1035, April 2006)

4-605. Meals and incidentals. (1) Receipts are not required for meals and incidentals. The authorized traveler may be reimbursed the daily amount based on the rate schedule and the authorized length of stay. The per diem meal amounts are expected to cover meals, tips, porters, and incidental expenses. The authorized traveler will not be reimbursed more than this.

(2) Whether meals may be claimed depends on when the traveler leaves and returns to the official station. The traveler's official station is home or work, whichever produces the least cost to the city. When partial day travel is involved, the current per diem allowance is determined as follows:

Meal	If departure before	If return after
Breakfast	7:00 A.M.	8:00 A.M.
Lunch *	11:00 A.M.	1:30 P.M.
Dinner **	5:00 P.M.	6:30 P.M.

*Generally, lunch will not be reimbursed unless overnight travel is involved. Lunch may be reimbursed if departure is before 11 A.M. and the employee is eligible to be reimbursed for dinner.
**When overnight travel is involved, dinner reimbursement is made regardless of departure time.

(3) Regardless of which reimbursement rate the city uses, the amounts include tip, gratuity, etc. The hour and date of departure and return must be shown on the expense reimbursement form.

(4) The excess cost of an official banquet may be allowed provided proper documentation or explanation is submitted with expense reimbursement form. If a meal is included as part of a conference or seminar registration, or is included with the air fare, then the allowance for that meal should be subtracted from the total allowance for the day. For example, if a dinner is included as part of the conference fee, the maximum meal allowance for the day should be reduced by the allowed dinner amount.

PLEASE NOTE:

The municipality has selected to reimburse travelers at the ________ [enter either federal or state] travel regulation rates. The city's rates will automatically change when the selected agency rates are adjusted. (as added by Ord. #1035, April 2006)

4-606. Miscellaneous expenses. (1) Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the cost of official banquets, meals, lodging, and registration fees. Registration fees should be specified on the original travel request form and can include a request for pre-registration fee payment.

(2) The traveler may be reimbursed for personal phone calls while on official travel, but the amount will be limited to five dollars ($5.00) per day.

(3) A four dollar ($4.00) allowance will be reimbursable for hotel/motel check-in and baggage handling expenses.

(4) Laundry, valet service, tips, and gratuities are considered personal expenses and are not reimbursable.

(5) For travel outside the United States, all expenses claimed must be converted to U.S. dollars. The conversion rate and computation should be shown on each receipt. (as added by Ord. #1035, April 2006)

4-607. Entertainment. (1) The city may pay for certain entertainment expenses provided that the:

(a) Entertainment is appropriate in the conduct of city business;
(b) Entertainment is approved by the CAO;
(c) Group or individuals involved are identified; and
(d) Documentation is attached to the expense form to support the entertainment expense claims.

(2) To request reimbursement for authorized entertainment expenses, be sure to include with the expense reimbursement form.

(a) Required receipts. All requests must be supported by original receipts from the vendor (restaurant, caterer, ticket office, etc.). Reasonable tips and gratuities included on the receipt by the vendor are reimbursable.

(b) A disclosure and explanation statement, explaining the purpose of the entertainment and identifying the group and the number of people entertained (or individual names listed if not a recognized group).

If the CAO is the person filing the claim, then it must be approved by the governing board before the finance officer authorizes payment. (as added by Ord. #1035, April 2006)

4-608. Travel reconciliation. (1) Within ten (10) days of return from travel, or by the end of the month, the traveler is expected to complete and file the expense reimbursement form. It must be certified by the traveler that the amount due it true and accurate. Original lodging, travel, taxi, parking and other receipts must be attached.

If the city provided a travel advance or made advanced payment, the traveler should include that information on the expense form. In the case of advances, the form should have a reconciliation summary, reflecting total claimed expenses with advances and city pre-payments indicated. The balance due the traveler or the refund due the city should be clearly shown below the total claim on the form or in a cover memo attached to the front of the form.

(2) If the traveler received a travel advance and spent less that the advance the traveler should attach a check made payable to the city for that difference.

(3) The CAO will address special circumstances and issues not covered in this chapter on a case-by-case basis. (as added by Ord. #1035, April 2006)

4-609. Disciplinary action. Violation of the travel rules can result in disciplinary action for employees. Travel fraud can result in criminal prosecution of officials and/or employees.

TITLE 5

MUNICIPAL FINANCE AND TAXATION

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

CHAPTER 1

MISCELLANEOUS

SECTION
5-101. Official depositories for town funds.
5-102. Execution of checks.

5-101. Official depositories for town funds. The depositories for funds of the Town of Mountain City shall be as designated by the board of mayor and aldermen. (1978 Code, § 6-101)

5-102. Execution of checks. The mayor or finance chairman shall co-sign, with the recorder, all checks drawn on the treasury of the Town of Mountain City. (1978 Code, § 6-102)

CHAPTER 2

REAL PROPERTY TAXES[1]

SECTION
5-201. When due and payable.
5-202. When delinquent--penalty and interest.

5-201. When due and payable. Taxes levied by the town against real property shall become due and payable annually on the fifteenth (15) day of July of the year for which levied. (1978 Code, § 6-201)

5-202. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of September next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the town charter and the state law for delinquent county real property taxes. (1978 Code, § 6-202)

[1]Charter reference
Property taxes: Art. X.

CHAPTER 3

PRIVILEGE TAXES

SECTION
5-301. Tax levied.
5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (title 67, chapter 58, Tennessee Code Annotated) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the said act. (1978 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the Town of Mountain City without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon such applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1978 Code, § 6-302)

CHAPTER 4

WHOLESALE BEER TAX

SECTION
5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in chapter 6 of title 57, Tennessee Code Annotated.[1] (1978 Code, § 6-401)

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

Municipal code reference
Alcohol and beer regulations: title 8.

CHAPTER 5

PURCHASING

SECTION
5-501. Dollar amount raised.

5-501. Dollar amount raised. (1) The dollar amount required in Tennessee Code Annotated, 6-56-306(a), for public advertisement and competitive bidding in regards to purchases by the Town of Mountain City, Tennessee, shall henceforth be increased from two thousand five hundred ($2,500.00) dollars to the maximum of ten thousand ($10,000.00) dollars.

(2) All references under the Municipal Purchasing Law of 1983, Tennessee Code Annotated, 6-56-301, et seq., to two thousand five hundred ($2,500.00) dollars shall henceforth be deemed a reference to ten thousand ($10,000.00) dollars, the amount established by the Board of Mayor and Alderman of the Town of Mountain City, Tennessee. (Ord. #879, Nov. 1992, as replaced by Ord. #913, Oct. 1999)

TITLE 6

LAW ENFORCEMENT[1]

CHAPTER
1. POLICE DEPARTMENT.
2. ARREST PROCEDURES.

CHAPTER 1

POLICE DEPARTMENT

SECTION
6-101. Policemen subject to chief's orders; power of suspension.
6-102. Policemen to preserve law and order, etc.
6-103. Police department records.
6-104. Policemen may require assistance.

6-101. Policemen subject to chief's orders; power of suspension. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue.

The chief of police shall have the power to suspend any police officer for misconduct in office or neglect of duty, reporting his actions with his reasons therefor to the next meeting of the board of mayor and aldermen. (1978 Code, § 1-401)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the Town of Mountain City. They shall patrol the town and shall assist the town court during the trial of cases. Policemen shall also promptly serve any legal process issued by the town court. (1978 Code, § 1-402)

6-103. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing:

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

(2) All arrests made by policemen.

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[1]Municipal code reference
Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

(3) All police investigations made, funerals, convoyed, fire calls answered, and other miscellaneous activities of the police department. (1978 Code, § 1-407)

6-104. Policemen may require assistance. It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such person's assistance is requested by the policeman and is reasonably necessary. (1978 Code, § 1-405)

CHAPTER 2

ARREST PROCEDURES

SECTION
6-201. When policemen to make arrests.
6-202. Disposition of persons arrested.

6-201. When policemen to make arrests.[1] Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1978 Code, § 1-404)

6-202. Disposition of persons arrested. (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinance, shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond. (1978 Code, § 1-406, modified)

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[1]Municipal code reference
Issuance of citation in lieu of arrest in traffic cases: title 15, chapter 7.

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

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

CHAPTER 1

FIRE DISTRICT[2]

SECTION
7-101. Fire district described.

7-101. Fire district described. The corporate fire limits shall be and include all those areas of the town zoned as business (B-1, B-2, and B-3) districts and as industrial (M-1) districts. (1978 Code, § 7-101)

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

[2]The significance of the fire district is that Chapter III of the Standard Building Code, applicable to the Town of Mountain City through title 12 of this code, imposes certain construction, modification and other requirements peculiar to buildings located within the fire district, and prohibits Hazardous (Group H) occupancies within the fire district. Chapter IV, Section 408 of the Standard Building Code defines Hazardous (Group H) occupancy in both general and specific terms, but generally it refers to occupancies involving highly combustible, flammable or explosive materials.

CHAPTER 2

FIRE CODE[1]

SECTION
7-201. Fire code adopted.
7-202. Enforcement.
7-203. Definition of "municipality."
7-204. Storage of explosives, flammable liquids, etc.
7-205. Gasoline trucks.
7-206. Variances.
7-207. Violations and penalties.
7-208. Duration of permits.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, sections 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 Standard Fire Prevention Code,[2] 1991 edition with 1992 and 1992-93 revisions as recommended by the Southern Standard Building Code Congress International, Inc. is hereby adopted by reference and included as a part of this code. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1978 Code, § 7-201)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1978 Code, § 7-202)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the Town of Mountain City, Tennessee. (1978 Code, § 7-203)

7-204. Storage of explosives, flammable liquids, etc. (1) The district referred to in section 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the fire district as set out in section 7-101 of this code.

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

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

(2) The district referred to in section 902.1.1 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 section 7-101 of this code.

(3) The district referred to in section 906.1 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 section 7-101 of this code.

(4) The district referred to in section 1701.4.2 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 section 7-101 of this code. (1978 Code, § 7-204)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline. (1978 Code, § 7-205)

7-206. 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. (1978 Code, § 7-206)

7-207. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the Standard 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 of the Town of Mountain City or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for this municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1978 Code, § 7-207)

7-208. Duration of permits. The duration of any permit or authorization issued pursuant to applicable sections of the Standard Fire Prevention Code adopted by reference in section 7-201 of this code shall be set by the chief of the fire department at the time of such issuance. (1978 Code, § 7-208)

CHAPTER 3

FIRE DEPARTMENT[1]

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

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of mayor and aldermen of the Town of Mountain City. All apparatus, equipment, and supplies shall be purchased by or through the Town of Mountain City and shall be and remain the property of the town. The fire department shall be composed of a chief and such number of subordinate officers and firemen as the board of mayor and aldermen shall appoint with the confirmation of the board. (1978 Code, § 7-301)

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

(1) To prevent uncontrolled fires from starting.

(2) To prevent the loss of life and property because of fires.

(3) To confine fires to their places of origin.

(4) To extinguish uncontrolled fires.

(5) To prevent loss of life from asphyxiation or drowning.

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1978 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. (1978 Code, § 7-303)

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

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[1]Municipal code reference

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

to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1978 Code, § 7-304)

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

All personnel of the fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1978 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. (1978 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of section 68-102-108 of the Tennessee Code Annotated, the chief of the fire department is designated as an assistant to the state commissioner of insurance and banking and is subject to all the duties and obligations imposed by chapter 102 of title 68 of said Tennessee Code Annotated, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1978 Code, § 7-307)

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

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

7-401. Equipment and personnel to be used only within corporate limits. No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless the fire is on town property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by or located within the town as to endanger the town property or unless expressly authorized in writing by the board of mayor and aldermen. (1978 Code, § 7-307)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION
8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws[2] and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within the Town of Mountain City. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1978 Code, § 2-101)

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[1]Municipal code references
Driving under the influence: section 15-104.
Minors in beer places, public drunkenness, etc.: title 11 chapter 2.
State law reference
Tennessee Code Annotated, title 57.

[2]State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER

SECTION
8-201. Prohibited generally.

8-201. Prohibited generally. Except as authorized by applicable laws,[1] and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any beer within this town. "Beer" shall be defined to include all beers, ales, or malt liquor bearing an alcoholic content of not more than five percent (5%) by weight. (1978 Code, § 2-201)

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[1]Municipal code references
Public drunkenness: title 11, chapter 2.
Tax provisions: title 5.
State law reference
For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v.Naifeh 635 S.W.2d 104 (1982).

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER
1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. GARAGE SALES, ETC.
6. CABLE TELEVISION.
7. ADULT-ORIENTED ESTABLISHMENTS.

CHAPTER 1

MISCELLANEOUS

SECTION
9-101. "Going out of business" sales.
9-102. Storing or displaying merchandise, etc. outside of buildings.

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. (1978 Code, § 5-102)

9-102. Storing or displaying merchandise, etc. outside of buildings. All chattels, merchandise, goods or other personal property shall be stored in buildings or other permanent enclosures except under the following conditions:

(1) When stored temporarily not exceeding business hours.

(2) Goods that are stored in the regular course of business not exceeding twenty-four (24) hours.

(3) Goods and chattels that are not considered inventory for resale.

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

(4) Any motor vehicle, mobile farm machinery, mobile home or house trailer or other such mobile property when such chattels are operable.

(5) When a certificate of exemption has been issued upon good cause by the building inspector or town engineer. (1978 Code, § 5-103)

CHAPTER 2

PEDDLERS, ETC.

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

9-201. Permit required. It shall be unlawful for any peddler, canvasser, or solicitor, or transient merchant to ply his trade within the Town of Mountain City without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1978 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic, or philanthropic organizations. (1978 Code, § 5-202)

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

(1) Name and physical description of applicant.

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

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

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

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

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

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

(10) At the time of filing the application, a fee of five dollars ($5.00) shall be paid to the Town of Mountain City to cover the cost of investigating the facts stated therein. (1978 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the town 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 town 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 town recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by section 9-206. The town recorder shall keep a permanent record of all permits issued. (1978 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the town recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1978 Code, § 5-205)

9-206. Bond. Every permittee shall file with the town recorder a surety bond running to the Town of Mountain City in the amount of one thousand dollars ($1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the Town of Mountain City that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the town doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1978 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the town 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. (1978 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such 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. (1978 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1978 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1978 Code, § 5-210)

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

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

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

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

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1978 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1978 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1978 Code, § 5-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION
9-301. Permit required.
9-302. Prerequisites for a permit.
9-303. Exhibition of permit.
9-304. Receipts, expenses, and cash disposition report.
9-305. Criminal liability.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the board of mayor and aldermen authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1978 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall present each application for a permit to the board of mayor and aldermen for approval after ascertaining that the following facts exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer, or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1978 Code, § 5-302)

9-303. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1978 Code, § 5-303)

9-304. Receipts, expenses, and cash disposition report. Within five working days after completion of the solicitation efforts, applicants will submit to the town recorder, 210 South Church Street, Mountain City, Tennessee, a

written report certifying the amounts of money collected, expenses incurred, and the exact disposition of the remaining funds collected. This report is to be filed on the reverse side of the application/permit form furnished by the Town of Mountain City. (1978 Code, § 5-304)

9-305. Criminal liability. Any person who willfully and knowingly violates any provisions of this chapter or who shall willfully and knowingly give false or incorrect information to the town recorder in filing statements or reports required by this chapter, whether such reports or statements are verified or not, shall be guilty of a misdemeanor. (1978 Code, § 5-305)

CHAPTER 4

TAXICABS[1]

SECTION
9-401. Taxicab franchise and privilege license required.
9-402. Requirements as to application and hearing.
9-403. Liability insurance or bond required.
9-404. Revocation or suspension of franchise.
9-405. Mechanical condition of vehicles.
9-406. Cleanliness of vehicles.
9-407. Inspection of vehicles.
9-408. License and permit required for drivers.
9-409. Qualifications for driver's permit.
9-410. Revocation or suspension of driver's permit.
9-411. Drivers not to solicit business.
9-412. Parking restricted.
9-413. Drivers to use direct routes.
9-414. Taxicabs not to be used for illegal purposes.
9-415. Miscellaneous prohibited conducted by drivers.
9-416. Transportation of more than one passenger at the same time.
9-417. Fares.

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the town and has a currently effective privilege license. (1978 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of the cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the

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

application to the board of mayor and aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board of mayor and aldermen shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1978 Code, § 5-402)

9-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in title 55, chapter 12, Tennessee Code Annotated. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insuror to both the insured and the recorder of the Town of Mountain City. (1978 Code, § 5-403)

9-404. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1978 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1978 Code, § 5-405)

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

At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1978 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1978 Code, § 5-407)

9-408. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1978 Code, § 5-408)

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

(1) Makes written application to the chief of police.

(2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.

(3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

(5) Produces affidavits of good character from two (2) reputable citizens of the town who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.

(6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent traffic offenses.

(7) Is familiar with the state and local traffic laws. (1978 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The board of mayor and aldermen after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in section 9-409. (1978 Code, § 5-410)

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the Town of Mountain City for the purpose of obtaining patronage for their cabs. (1978 Code, § 5-411)

9-412. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1978 Code, § 5-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1978 Code, § 5-413)

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1978 Code, § 5-414)

9-415. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise unreasonably disturb the peace, quiet, and tranquility of the town in any way. (1978 Code, § 5-415)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1978 Code, § 5-416)

9-417. Fares. All taxicab fares shall be established under such rate schedules as the board of mayor and aldermen may from time to time adopt by appropriate ordinance.[1] (1978 Code, § 5-417)

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[1]Administrative ordinances are of record in the office of the town recorder.

CHAPTER 5

GARAGE SALES, ETC.

SECTION
9-501. Intent of chapter.
9-502. Permit required for holding sales.
9-503. Permit limitations.
9-504. Application for permit.
9-505. Permit fee.
9-506. Conditions to be met.
9-507. Signs.
9-508. Right of access for inspection.
9-509. Violations.

9-501. Intent of chapter. It is the intent of these regulations to regulate the term and frequency of personal property sales (such as garage sales, porch sales, basement sales, yard sales, and other similar types of sales) so as not to disturb or disrupt the residential environment of the area. It is not the intent of this chapter to seek control of sales by individuals selling a few of their household or personal items. (1978 Code, § 5-501)

9-502. Permit required for holding sales. Any person desirous of holding a personal property sale, (such as, but not limited to a garage sale, basement sale, porch sale, or yard sale) resale of used household, clothing or any personal property items which are owned by the residents of the premises, shall obtain a permit therefor from the recorder's office. (1978 Code, § 5-502)

9-503. Permit limitations. (1) Any such permit issued shall be for a term not exceeding three (3) consecutive calendar days.

(2) The hours of sale shall be from 9:00 A. M. to 9:00 P. M.

(3) Permits shall be limited to three (3) per calendar year, per residential dwelling. (1978 Code, § 5-503)

9-504. Application for permit. The application for a permit shall be made to the recorder upon forms furnished by the Town of Mountain City. (1978 Code, § 5-504)

9-505. Permit fee. The permit fee for each sale shall be three dollars ($3.00). (1978 Code, § 5-505)

9-506. Conditions to be met. (1) The permit will be valid only upon a proper showing and finding by the town that proper safety and environmental precautions have been taken for the public.

(2) The permit shall be posted on the premises in a conspicuous place so as to be seen by the public and town police. (1978 Code, § 5-506)

9-507. Signs. Advertising signs shall not exceed twelve (12) inches by twelve (12) inches and immediately after such sale terminates, all signs shall be removed. (1978 Code, § 5-507)

9-508. Right of access for inspection. Any police officer or other official designated by any town ordinance to make inspections under the licensing or regulating ordinances of the town or to enforce the same, shall have the right of entry to any premises showing evidence of a personal property sale for the purpose of enforcement or inspection and may close the premises for such a sale. (1978 Code, § 5-508)

9-509. Violations. Any person, association, or corporation conducting such sale without being properly licensed or who shall violate any of the terms and regulations of this chapter shall, upon conviction, be fined under the general penalty clause for this municipal code. (1978 Code, § 5-509)

CHAPTER 6

CABLE TELEVISION

SECTION
9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television shall be furnished to the Town of Mountain City and its inhabitants under franchise granted to Rifkin Communications Partners, L.P. by the board of mayor and aldermen of the Town of Mountain City, Tennessee. The rights, powers, duties and obligations of the Town of Mountain City and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.[1] (As added by Ord. #901, Nov. 1997)

[1]For complete details relating to the cable television franchise agreement see Ord. #901 dated Nov. 1997 in the office of the city recorder.

CHAPTER 7

ADULT-ORIENTED ESTABLISHMENTS

SECTION
9-701. Definitions.
9-702. License required.
9-703. Application for license.
9-704. Standards for issuance of license.
9-705. Permit required.
9-706. Application for permit.
9-707. Standards for issuance of permit.
9-708. Fees.
9-709. Display of license or permit.
9-710. Renewal of license or permit.
9-711. Revocation of license or permit.
9-712. Hours of operation.
9-713. Responsibilities of the operator.
9-714. Prohibitions and unlawful sexual acts.
9-715. Penalties and prosecution.
9-716. Invalidity of part.
9-717, et seq. Reserved.

9-701. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment receiving at least 20% of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVD's, films and other electronic media which are distinguished or

characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below. "Adult bookstore" shall not include video stores whose primary business is the rental and sale of videos which are not distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

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

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

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

(6) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the Town of Mountain City, Tennessee.

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

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

(9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance or specified sexual activities or exhibition and viewing of specified anatomical areas,

removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

(11) "Specified sexual activities" means:

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

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

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

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

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

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered. (as added by Ord. #968, Jan. 2005)

9-702. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Town of Mountain City without first obtaining a license to operate issued by the Town of Mountain City.

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

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

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

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

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (as added by Ord. #968, Jan. 2005)

9-703. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the Town of Mountain City. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

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

(a) Name and addresses, including all aliases.

(b) Written proof that the individual(s) is at least eighteen (18) years of age.

(c) All residential addresses of the applicant(s) for the past three (3) years.

(d) The applicants' height, weight, color of eyes and hair.

(e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.

(f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

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

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

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

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

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

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

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

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

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

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

(4) Whenever an applicant is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of mayor and aldermen and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Johnson County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation

required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief. (as added by Ord. #968, Jan. 2005)

9-704. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

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

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

(b) If the applicant is a corporation:

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

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

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

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

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

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

(2) No license shall be issued unless the Mountain City Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no

later than twenty (20) days after the date of the application. (as added by Ord. #968, Jan. 2005)

9-705. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief. (as added by Ord. #968, Jan. 2005)

9-706. Application for permit. (1) Any person desiring to secure a permit shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

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

(a) Name and address, including all aliases.

(b) Written proof that the individual is at least eighteen (18) years of age.

(c) All residential addresses of the applicant for the past three (3) years.

(d) The applicant's height, weight, color of eyes, and hair.

(e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.

(f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

(g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

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

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

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Mountain City Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional

thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

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

(5) Failure or refusal of the applicant to give any additional information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief. (as added by Ord. #968, Jan. 2005)

9-707. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

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

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

(2) No permit shall be issued until the Mountain City Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application. (as added by Ord. #968, Jan. 2005)

9-708. Fees. (1) A license fee of five hundred dollars ($500.00) shall be submitted with the application for a license. If the application is denied, one-half (½) of the fee shall be returned.

(2) A permit fee of one hundred dollars ($100.00) shall be submitted with the application for a permit. If the application is denied, one-half (½) of the fee shall be returned. (as added by Ord. #968, Jan. 2005)

9-709. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Mountain City Police Department, or any person designated by the board of mayor and aldermen. (as added by Ord. #968, Jan. 2005)

9-710. <u>Renewal of license or permit</u>. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for the renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars ($500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars ($100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the total fees collected shall be returned.

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

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

(5) A permit renewal fee of one hundred dollars ($100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars ($50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (½) of the fee shall be returned.

(6) If the Mountain City Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief. (as added by Ord. #968, Jan. 2005)

9-711. Revocation of license or permit. (1) The police chief shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

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

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

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

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

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

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before

the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

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

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #968, Jan. 2005)

9-712. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Mountain City Police Department, the Johnson County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate. (as added by Ord. #968, Jan. 2005)

9-713. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone number, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

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

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

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of

determining whether the operator's license shall be revoked, suspended or renewed.

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

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

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

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

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

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

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

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

(as added by Ord. #968, Jan. 2005)

9-714. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

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

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (as added by Ord. #968, Jan. 2005)

9-715. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars ($50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #968, Jan. 2005)

9-716. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (as added by Ord. #968, Jan. 2005)

TITLE 10

ANIMAL CONTROL[1]

CHAPTER
1. IN GENERAL.
2. DOGS, CATS, ETC.

CHAPTER 1

IN GENERAL

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

10-101. Running at large prohibited.[2] It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules or 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. (1978 Code, § 3-101)

10-102. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1978 Code, § 3-102)

10-103. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1978 Code, § 3-103)

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[1]Municipal code reference
Horses prohibited on public trails and sidewalks: § 16-113.

[2]Charter reference: art. VI, § 1(14).

10-104. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance either because of noise odor, contagious disease, or other reason. (1978 Code, § 3-104)

10-105. Cruel treatment prohibited. It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1978 Code, § 3-105)

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 or area provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The town shall be entitled to collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (1978 Code, § 3-106)

10-107. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1978 Code, § 3-107)

CHAPTER 2

DOGS, CATS, ETC.

SECTION
10-201. Rabies vaccination and registration required.
10-202. Dogs to wear tags.
10-203. Running at large prohibited.
10-204. Vicious animals to be securely restrained.
10-205. Noisy animals prohibited.
10-206. Confinement of animals suspected of being rabid.
10-207. Seizure and disposition of animals.
10-208. Position of animal control officer.
10-209. Fees, costs, and expenses.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep or harbor any dog, cat or household pet susceptible to the contraction of rabies without having the same vaccinated against rabies and registered in accordance with the "Tennessee Anti-Rabies Law" Tennessee Code Annotated, sections 68-8-101 through 68-8-114 or other applicable law. (1978 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep or harbor any dog which does not wear a tag evidencing vaccination and registration required by the preceding section. (1978 Code, § 3-202)

10-203. Running at large prohibited.[1] It shall be unlawful for any person knowingly to permit any dog, cat or household pet owned by him or under his control, to run at large within the corporate limits of the Town of Mountain City. (1978 Code, § 3-203)

10-204. Vicious animals to be securely restrained. It shall be unlawful for any person to own or keep any dog, or other animal known to him to be vicious or dangerous unless such animal is so confined and/or otherwise securely restrained so as to reasonably provide for the protection of other animals, persons and property. (1978 Code, § 3-204)

10-205. Noisy animals prohibited. No person shall own, keep or harbor any dog, or other animal which, by loud or frequent barking, howling, whining

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[1]State law reference
Tennessee Code Annotated, sections 68-8-108 and 68-8-109.
Charter reference: art. VI, § 1(14).

or similar noise, annoys or disturbs the peace and quiet of any neighborhood. (1978 Code, § 3-205)

10-206. Confinement of animals suspected of being rabid. If any dog or other animal has bitten or scratched any person, or is suspected of having bitten or scratched any person, and/or for any reason, is suspected of being infected with rabies, the health officer, chief of police, or animal control officer may cause such animal to be confined and/or isolated for such time as he deems reasonably necessary to determine if such animal is in fact rabid. If, after such length of time, the animal is determined not to be rabid, it shall immediately be returned to its lawful owner, who shall be chargeable with a reasonable fee for the boarding of the animal, and the costs of any necessary tests performed to determine if such animal is rabid. (1978 Code, § 3-206)

10-207. Seizure and disposition of animals. Any dog, cat or other household pet found running at large may be seized by the health officer, or animal control officer, or any police officer and placed in an animal control shelter provided or designated by the board of mayor and aldermen. If said animal is wearing a tag, the owner shall be notified in person, by telephone, or by other means reasonably calculated to convey actual notice, to appear within five (5) days and redeem his animal by paying a reasonable boarding fee, and any other necessary costs in accordance with a schedule approved by the board of mayor and aldermen. If such animal is not claimed within five (5) days after notice is given to such owner, then it shall be humanely destroyed or sold, with the reasonable costs of such euthanasia to be likewise chargeable to the owner.

If such animal is not wearing a tag, it shall be humanely destroyed or sold within two (2) days after such animal is placed in the animal control shelter, unless claimed by its lawful owner. No animal shall be released in any event from the animal control shelter unless such animal has been properly vaccinated, or its owner has presented a proper certificate stating that such animal has been properly vaccinated within a period of one (1) year, or within a period of three years, depending upon the type of vaccination administered.

When, because of its viciousness or apparent infection with rabies, an animal found running at large cannot be safely impounded, it may be summarily destroyed by the health officer, animal control officer, or any police officer if deemed necessary for the protection from personal injury by such officer. (1978 Code, § 3-207)

10-208. Position of animal control officer. There is hereby created the position of animal control officer whose duties shall include the enforcement of this chapter, the maintenance and operation of the animal control shelter, and such other related duties as the board of mayor and aldermen may from time to time direct, and for such salary or other remuneration as the board of mayor and aldermen may from time to time fix. (1978 Code, § 3-208)

10-209. <u>Fees, costs, and expenses</u>. The board of mayor and aldermen is hereby authorized to fix fees, costs, and expenses, by resolution, for pick-up of animals, vaccination of animals where necessary, boarding costs of animals at the animal control shelter, necessary tests performed on animals to determine infection of rabies, registration of animals, for owners of individual animals and operators of kennels where animals are bred for sale, and costs of performance of euthanasia where necessary and authorized herein. Such costs and/or fees shall be set forth on a schedule approved and fixed by the board of mayor and aldermen, and the receipts from such costs and/or fees shall be applied to the maintenance of the animal control shelter, remuneration of the animal control officer, and such other related expenses deemed appropriate by the board of mayor and aldermen. (1978 Code, § 3-209)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER
1. OFFENSES INVOLVING ALCOHOL.
2. [DELETED.]
3. OFFENSES AGAINST PROPERTY.
4. OFFENSES AGAINST THE PEACE AND QUIET.
5. OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY OR WELFARE.
6. OFFENSES AGAINST THE PERSON.

CHAPTER 1

OFFENSES INVOLVING ALCOHOL[2]

SECTION
11-201. Drinking alcoholic beverages in public, etc.
11-202. Minors in beer places.

11-201. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on premises consumption. (1978 Code, § 10-229)

11-202. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption. (1978 Code, § 10-222, modified)

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[1]Municipal code references
Animal control: title 10.
Housing and utilities: title 12.
Fireworks and explosives: title 7.
Traffic offenses: title 15.
Streets and sidewalks (non-traffic): title 16.

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.
State law reference
See Tennessee Code Annotated section 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

[DELETED.]

(1978 Code, §§ 10-209, 10-211, 10-217, and 10-210, as deleted by Ord. #1063, Oct. 2006)

CHAPTER 3

OFFENSES AGAINST THE PROPERTY

SECTION
11-301. Trespassing.
11-302. [Deleted.]
11-303. Interference with traffic.

11-301. Trespassing.[1] The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1978 Code, § 10-226)

11-302. [Deleted.] (1978 Code, § 10-225, as deleted by Ord. #1063, Oct. 2006)

11-303. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1978 Code, § 10-232)

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[1]State law reference
Tennessee Code Annotated, section 39-14-405.

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION
11-401. Disturbing the peace.
11-402. Anti-noise regulations.
11-403. [Deleted.]

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1978 Code, § 10-202)

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

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

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

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

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

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

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

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

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

(l) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an amplified 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. (1978 Code, § 10-233)

11-403. [Deleted.] (1978 Code, § 10-203, as deleted by Ord. #1063, Oct. 2006)

CHAPTER 5

OFFENSES AGAINST THE PUBLIC HEALTH, SAFETY OR WELFARE[1]

SECTION
11-501. Air rifles, etc.
11-502. Throwing of missiles.
11-503. Weapons and firearms generally.
11-504. Abandoned refrigerators, etc.
11-505. Caves, wells, cisterns, etc.
11-506. Posting notices, etc.
11-507. Spitting on streets, etc.
11-508. Curfew for minors.
11-509. Obscene literature, etc.
11-510. Indecent exposure.

11-501. Air rifles, etc. It shall be unlawful for any person in the town to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1978 Code, § 10-213)

11-502. Throwing of missiles. It shall be unlawful for any person to throw any stone, snowball, bottle, or any other missile maliciously upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1978 Code, § 10-214)

11-503. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties. It shall also be unlawful for any unauthorized person to discharge a firearm within the town. (1978 Code, § 10-212)

[1]Charter reference: art. VI, § 1(18).

11-504. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1978 Code, § 10-223)

11-505. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1978 Code, § 10-231)

11-506. Posting notices, etc. No person shall paint, make, or fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1978 Code, § 10-227)

11-507. Spitting on streets, etc. It shall be unlawful for any person to spit upon any public street or sidewalk or upon the floors or walks of any public place. (1978 Code, § 8-110)

11-508. Curfew for minors. It shall be unlawful for any person under the age of eighteen (18) years to be abroad at night between 11:00 p.m. and 5:00 a.m. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1978 Code, § 10-224)

11-509. 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 obscene matter.[1] (1978 Code, § 10-205, modified)

11-510. Indecent exposure. It shall be unlawful for any person publicly to appear naked or otherwise to make any indecent exposure of his or her person. (1978 Code, § 10-206, modified)

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[1]State law reference
Tennessee Code Annotated, section 39-17-902.

CHAPTER 6

OFFENSES AGAINST THE PERSON

SECTION
11-601. Assault and battery.
11-602. Coercing people not to work.

11-601. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (1978 Code, § 10-201)

11-602. 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. (1978 Code, § 10-230)

TITLE 12

BUILDING, UTILITY, ETC. CODES[1]

CHAPTER
1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. HOUSING CODE.
5. MODEL ENERGY CODE.

CHAPTER 1

BUILDING CODE[2]

SECTION
12-101. Building code adopted.
12-102. Modifications.
12-103. Available in recorder's office.
12-104. Violations.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, sections 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[3], 2003 edition as published by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (1978 Code, § 4-101, as amended by Ord. #961, Dec. 2004)

12-102. Modifications. (1) Definitions. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall

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[1]Charter reference: art. VI, § 1(21).

[2]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

[3]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

be deemed to be a reference to the board of mayor and aldermen of the municipality. 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 has appointed or designated to administer and enforce the provisions of the building code.

(2) Permit fees. The following schedule of permit fees shall be collected in lieu of any fees described in the International Building Code:

COST OF BUILDING	PERMIT FEES	INSPECTION FEES	TOTAL
-0- to $400.00	$ 7.00	$ 8.00	$ 15.00
$500.00 to 2,499.00	12.00	8.00	20.00
$2,500.00 to 7,499.00	17.00	8.00	25.00
$7,500.00 to 14,999.00	22.00	8.00	30.00
$15,000.00 to 24,999.00	27.00	8.00	35.00
$25,000.00 to 39,999.00	32.00	8.00	40.00
$40,000.00 to 74,999.00	42.00	8.00	50.00
$75,000.00 to 100,000.00	67.00	8.00	75.00
$100,000.00 to 500,000.00	142.00	8.00	150.00
$500,000.00 to 1,000,000.00	192.00	8.00	200.00
Over $1,000,000.00	242.00	8.00	250.00

(1978 Code, § 4-102, as amended by Ord. # 862, June 1989, and Ord. #961, Dec. 2004)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, section 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. (1978 Code, § 4-103)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1978 Code, § 4-104)

CHAPTER 2

PLUMBING CODE[1]

SECTION
12-201. Plumbing code adopted.
12-202. Modifications.
12-203. Available in recorder's office.
12-204. Violations.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, sections 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 town, when such plumbing is or is to be connected with the town water or sewerage system, the Standard Plumbing Code,[2] 1991 edition with 1992 and 1992-93 revisions, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (1978 Code, § 4-201)

12-202. Modifications. (1) Definitions. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen of the Town of Mountain City.

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.

(2) Permit fees. The schedule of permit fees as recommended in "Appendix H" of the plumbing code is hereby adopted. (1978 Code, § 4-202, modified)

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[1]Municipal code references
Cross connections: title 18.
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

[2]Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, section 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. (1978 Code, § 4-203)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1978 Code, § 4-204)

CHAPTER 3

ELECTRICAL CODE[1]

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

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, sections 6-54-501 through 6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,[2] 1993 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1978 Code, § 4-301)

12-302. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, section 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. (1978 Code, § 4-302)

12-303. Permit required for doing electrical work. No electrical work shall be done within the town until a permit therefor has been issued by the town. 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. (1978 Code, § 4-303)

12-304. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1978 Code, § 4-304)

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[1]Municipal code reference
Fire protection, fireworks and explosives: title 7.

[2]Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

12-305. Enforcement. The electrical inspector shall be such person as the board of mayor and aldermen 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 insure 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. (1978 Code, § 4-305)

12-306. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, section 68-17-143 for electrical inspections by deputy inspectors of the state fire marshal. (1978 Code, § 4-306)

CHAPTER 4

HOUSING CODE

SECTION
12-401. Housing code adopted.
12-402. Modifications.
12-403. Available in recorder's office.
12-404. Violations.

12-401. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated, sections 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code,[1] 1991 edition with 1992 revisions, as prepared and adopted by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the housing code. (1978 Code, § 4-401)

12-402. Modifications. (1) Definitions. Wherever the housing code refers to the "Housing Official" it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the housing code. Wherever the "Department of Law" is referred to it shall mean the town attorney. Wherever the "Chief Appointing Authority" is referred to it shall mean the board of mayor and aldermen.

(2) Penalty clause deleted. Section 108 of the housing code is deleted. (1978 Code, § 4-402)

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, section 6-54-502, one (1) copy of the housing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1978 Code, § 4-403)

12-404. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1978 Code, § 4-404)

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[1]Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 5

MODEL ENERGY CODE[1]

SECTION
12-501. Model energy code adopted.
12-502. Modifications.
12-503. Available in recorder's office.
12-504. Violations and penalty.

12-501. Model energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Model Energy Code[2] 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

12-502. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Mountain City. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

12-503. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has

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[1]State law reference
Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.
Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

[2]Copies of this code (and any amendments) may be purchased from The Council of American Building Officials, 5203 Leesburg, Pike Falls Church, Virginia 22041.

been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-504. Violations and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars ($500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER
1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. MOBILE HOME PARK.

CHAPTER 1

MISCELLANEOUS

SECTION
13-101. Health officer.
13-102. House trailers.
13-103. Smoke, soot, cinders, etc.
13-104. Stagnant water.
13-105. Weeds.
13-106. Dead animals.
13-107. Maintenance, health and sanitation nuisances.
13-108. Presence of junked motor vehicles as a public nuisance.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the Town of Mountain City. (1978 Code, § 8-101)

13-102. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the Town of Mountain City and unless a permit therefor shall have been first duly issued by the recorder or the building official, as provided for in the building code. (1978 Code, § 8-104)

13-103. 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,

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: section 16-107.
Wastewater treatment: title 18, chapter 2.

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. (1978 Code, § 8-105)

13-104. 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. (1978 Code, § 8-106)

13-105. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the town recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1978 Code, § 8-107)

13-106. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1978 Code, § 8-108)

13-107. Maintenance, health or sanitation nuisances. Every owner or tenant of property shall maintain yards and/or vacant lots in a manner as not to be a menace to public health; but in a clean and sanitary condition, free from refuse or debris which might provide harborage or breeding place for rodents, vermin, insects or snakes.

The following is used to define refuse, weeds, junk, trash or garbage as used in this chapter; whether individually; jointly, and collectively mean any waste resulting from the handling, preparation, cooking, and consumption of food, and waste from handling, storage, and use of produce foods, any combustible trash, paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding, metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste, rubbish, leaves, cinders, lumber, scraps, shavings, residue from fires, cloth products, and any and all other organic and inorganic materials which have weight or occupy space. (1978 Code, § 8-109, as replaced by Ord. #____, Dec. 2001)

13-108. Presence of junked motor vehicles as a public nuisance.

(1) Definition of junked motor vehicles. Any motor vehicle the condition of which is anyone or more of the following:

(a) Wrecked;
(b) Dismantled;
(c) Inoperative;
(d) Abandoned; or

(e) Discarded.

A motor vehicle, for all purposes here under, is defined as any vehicle which is self propelled and any device in, upon, or by which any persons or property is or may be transported or drawn from one location to another, except devices moved only by human power or used exclusively upon stationary rails or tracks.

(2) Presence of junked motor vehicles a public nuisance. The location or presence of any junked motor vehicle on a lot, tract, or parcel of land, or portion thereof, occupied, improved, or unimproved, within the Town of Mountain City, Tennessee, shall be deemed a public nuisance, and it shall be unlawful for any persons. or other legal entity to cause, maintain, or permit such public nuisance by wrecking, dismantling, rendering inoperable, abandoning, or discarding a motor vehicle or vehicles on property of another, or to suffer, permit or allow the same to be placed, located, maintained, or to exist upon real property belonging to such party. However, this section shall not apply to the following:

(a) Any junked motor vehicle in a completely enclosed building.

(b) Any junked motor vehicle in an appropriate storage place or depository maintained in an officially designated place and manner by the Town of Mountain City.

(3) Notice to remove. Whenever it shall appear that a violation of the provisions of this chapter exists, the recorder shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this chapter, and he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that said motor vehicle violates the provisions of this chapter and directing that said motor vehicle be moved to a place of lawful storage within ten (10) days. Such notice shall be served upon the owner of the vehicle by leaving a copy of said notice on or with the vehicle. Notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located may be served by conspicuously posting said notice upon the premises. In case of publicly owned property, notice to the owner of the property where the vehicles is found is hereby dispensed with. (1978 Code, § 8-111, as replaced by Ord. #____, Dec. 2001)

CHAPTER 2

SLUM CLEARANCE[1]

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, section 13-21-101 et seq., the board of mayor and aldermen finds that there exist in the town 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 town.

13-202. Definitions. (1) "Municipality" shall mean the Town of Mountain City, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.

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

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[1]State law reference
Tennessee Code Annotated, title 13, chapter 21.
Charter reference: art. VI, § 1(22).

(4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.

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

(6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

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

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

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 town 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.

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order: (a) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy or

use; or (b) if the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

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 occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful."

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.

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 shall, upon the filing of the notice with the office of the register of deeds of Johnson County, 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 upon the tax rolls of the Town of Mountain City as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Johnson 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 provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the Town of Mountain City to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

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 Town of Mountain City; such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness.

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Johnson County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

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 suit in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such suit in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

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 town 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.

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town 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.

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 town 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 town.

Violations of this section shall subject the offender to a penalty of up to five hundred dollars ($500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

MOBILE HOME PARK

SECTION
13-301. Definitions.
13-302. Minimum standards.
13-303. General plan.
13-304. Registration.
13-305. Permits.
13-306. Enforcement.

13-301. Definitions. (1) "Mobile home." A detached single-family dwelling unit with the following characteristics:

(a) Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels.

(b) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

(2) "Independent mobile home." Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(3) "Dependent mobile home." Dependent mobile home shall mean a mobile home that does not have a flush toilet, a tub or shower bath.

(4) "Mobile home park." Mobile home park shall mean any plot of ground containing a minimum of one and one-half acres upon which two or more mobile homes are located or are intended to be located, but does not include sites where unoccupied mobile homes are on display for sale.

(5) "Buffer strip." Buffer strip shall mean a plant material which will provide a screen not less than six feet in height.

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

(7) "Building inspector." Building inspector shall mean the building inspector of Mountain City, Tennessee or his authorized representative.

(8) "Plumbing inspector." Plumbing inspector shall mean the plumbing inspector of Mountain City, Tennessee or his authorized representative.

(9) "Electric inspector." Electric inspector shall mean the electric inspector of Mountain City, Tennessee or his authorized representative. (1978 Code, § 8-501)

13-302. Minimum standards. (1) The site shall be located on a well drained and flood free site with proper drainage.

(2) The mobile home site shall not be exposed to objectionable smoke, noise, odors, insect or rodent harborage or other such adverse influences.

(3) The site shall be located with direct access to an open public street.

(4) There shall be buffer strips along side and rear lot lines of the park.

(5) The mobile home space shall be a minimum of 75 feet in depth, and shall abut on a driveway with unobstructed access to a public street. Each mobile home shall be set back a minimum of 10 feet from property lines and space lines, and there shall be a minimum distance of 20 feet between mobile homes.

(6) Each mobile home space shall provide a 200 square foot parking space or a common parking area may be provided which shall have one 200 square foot space for each mobile home space.

(7) Each mobile home park shall provide a common area for playgrounds. The area shall contain a minimum of 500 square feet for each mobile home space exclusive of roadways, mobile home spaces and parking spaces.

(8) Municipal water supply and sanitary sewer conditions shall be provided to each mobile home space. Piping and connections shall be specified and approved by the plumbing inspector.

(9) A mobile home park designed to accommodate space for dependent mobile homes, shall provide a service building to house the following facilities:

Dependent Mobile Home Spaces	Toilets		Urinals	Lavorties		Bathtubs or Showers	
	Male	Female	Male	Female	Male	Male	Female
1-10	1	2	1	2	2	1	1
11-20	2	3	1	2	2	2	2
21-50	3	4	2	3	3	3	3
51-100	4	5	3	4	4	3	3

(10) No service building shall be located less than 10 feet from any mobile home space. Service buildings shall be of permanent construction, adequately ventilated and lighted and built in conformity to all town codes and ordinances.

(11) All service buildings shall be convenient to the spaces which they solely serve and shall be maintained in a clean and sanitary condition.

(12) The drives, walks and park areas shall be paved with a hard surface material which shall not be less than a double bituminous surface.

(13) Driveways shall be a minimum of 18 feet in width.

(14) Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass, trees, shrubs, and pedestrian walks.

(15) The park shall be adequately lighted. (1978 Code, § 8-502)

13-303. General plan. The owner or lessee of the land parcel proposed for a mobile home park shall submit a plan for development to the Mountain City Planning Commission for approval. The plat shall show the following:

(1) The park plan drawn to scale.

(2) The area and dimensions of the proposed park.

(3) The location and width of all roadways and walkways.

(4) The location and dimensions of any proposed service buildings and structures.

(5) The location of all water and sewer lines.

(6) The location of all equipment and facilities for refuse disposal and other park improvements.

(7) A plan for drainage of the park.

(8) A certificate of accuracy signed by the surveyor or engineer that the engineering work is correct.

(9) Certificates and signatures of the health officer, building, housing, electrical, plumbing and fire inspectors.

(10) A certificate for planning commission approval.

(11) Any other information deemed pertinent by the planning commission. (1978 Code, § 8-503)

13-304. Registration. (1) Operators of all mobile home parks situated in the corporate limits of Mountain City shall keep a complete and permanent register of the inhabitants of the park, noting the following information:

(a) Car license number and state.

(b) Names, age and sex of occupants of each mobile home.

(c) Dates of admission and departure from the park.

(2) No space shall be rented for residential use of a mobile home in any such park except for periods of 30 days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the building, housing, plumbing, electrical, fire and health officer of Mountain City, Tennessee. (1978 Code, § 8-504)

13-305. Permits. (1) It shall be unlawful for any person to operate a mobile home park within the limits of the town unless such person shall first obtain a permit.

(2) The annual permit fee for each mobile home park shall be $25.00.

(3) The annual renewal of permits for mobile home parks shall be issued by the building inspector. The issuance of annual permits shall be contingent upon inspection and approval of the park by the health officer and building inspector. (1978 Code, § 8-505)

13-306. Enforcement. (1) This chapter shall be enforced by the building inspector.

(2) Any person or persons who shall willfully neglect or refuse to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined in accordance with the general penalty clause in this code. Each day of violation shall constitute a separate offense. (1978 Code, § 8-506)

TITLE 14

ZONING AND LAND USE CONTROL[1]

CHAPTER
1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOODPLAIN ZONING ORDINANCE.
4. BUSINESS AND ADVERTISING SIGNS.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

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

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, section 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of five (5) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen 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 will and pleasure. (1978 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1978 Code, § 11-102)

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[1]Charter reference: art. VI, § 1 (26).

CHAPTER 2

ZONING ORDINANCE

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

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Mountain City shall be governed by Ordinance Number 1063, titled "Zoning Ordinance, Mountain City, Tennessee," and any amendments thereto.[1] (as amended by Ord. #1063, Oct. 2006)

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[1]Ordinance No. 1063, and any amendments thereto, are published as separate documents and are of record in the office of the town recorder.

CHAPTER 3

FLOODPLAIN ZONING ORDINANCE

SECTION
14-301. Statutory authorization, findings of fact, purpose, and objectives.
14-302. Definitions.
14-303. General provisions.
14-304. Administration.
14-305. Provisions for flood hazard reduction.
14-306. Variance procedures.

14-302. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7201 through 13-7-210, 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 Mountain City, Tennessee Mayor and Board of Aldermen, does ordain as follows:

(2) Findings of fact. (a) The Mountain City Mayor and its legislative body wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).

(b) Areas of Mountain City 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) These 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 water 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 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 ordinance are:

(a) To protect human life, health 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 floodable areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the National Flood Insurance Program. (1978 Code, § 4-501, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-302. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall not be used for human habitation.

(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 which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "new construction."

(4) "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.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(6) "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.

(7) "Area of special flood hazard" 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, AI-3D, AE or A99.

(8) "Base flood" means the flood having a one percent (1%) chance of being equalled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building," means any structure built for support, shelter, or enclosure for any occupancy or storage (See "structure").

(12) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other

structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

(13) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement or 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.

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(15) "Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the program.

(16) "Exception" means a waiver from the provisions of this ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this ordinance.

(17) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured. homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(19) "Existing structures" see "existing construction."

(20) "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).

(21) "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.

(22) "Flood elevation determination" means a determination by the administrator 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.

(23) "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.

(24) "Flood Hazard Boundary Map (FHBM) " means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(25) "Flood Insurance Rate Map (FIRM) " means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(28) "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.

(29) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area wi thin a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(30) "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, structures and their contents.

(31) "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.

(32) "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.

(33) "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 flood plain management regulations.

(34) "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.

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(36) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(37) "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.

(38) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(39) "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 preliminary 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 a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(40) "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.

(41) "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.

(42) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(43) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(44) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(49) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(50) "North American Vertical Datum (NAVD)"as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(51) "100-year flood" see "base flood."

(52) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(53) "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; and

(d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

(54) "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.

(55) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(56) "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.

(57) "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.

(58) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the National Flood Insurance Program for the state.

(59) "Structure," for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(61) "Substantial improvement" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial repair or improvement; or

(b) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

(2) For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or;

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "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.

(63) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

(64) "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.

(65) "Water surface elevation" means the height, in National Geodetic Vertical Datum (NGVD) of 1929, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (1978 Code, § 4-502, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-303. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of Mountain City, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Mountain City, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47091C0130C, 47091C0131C, 47091C0133C, 47091C0140C, and 47091C0145C, dated June 16, 2009, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city of Mountain City, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Mountain City, Tennessee from taking such other lawful actions to prevent or remedy any violation. (1978 Code, § 4-503, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-304. Administration. (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage.

(i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to 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 BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Article IV, Section B.

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit. 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.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where 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.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

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:

(a) Review of all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(c) Notification to 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 submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood

maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-304(2).

(f) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-304(2).

(g) When flood proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-304(2).

(h) 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) the administrator shall 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.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall 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 community FIRM meet the requirements of this ordinance.

Within unnumbered 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 or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

(j) All records pertaining to the provisions of this ordinance shall be maintained 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. (1978 Code, § 4-504, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-305. Provisions for flood hazard reduction. (1) General standards. In all flood prone areas the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings 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 ordinance, shall meet the requirements of "new construction" as contained in this ordinance; and,

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said nonconformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated 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 or both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-305(2).

Within unnumbered 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 or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one foot (1') above the level of the base flood elevation.

Within unnumbered 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 or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-302 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-304(2).

Buildings located in all A-zones may be flood-proofed, 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 registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior, walls below the base flood elevation, or required height above the highest adjacent grade, 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 professional engineer or architect or meet 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 finish grade; and

(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) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-305(2) of this chapter.

(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, including elevations and anchoring.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one foot (1') above the level of the base flood elevation; or,

(B) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet (3') in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-305(2)(d) of this chapter.

(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 on identified flood hazard sites 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.)

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision 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 proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for supdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-303(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

developments 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, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-305.

(4) Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-303(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 structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a 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 or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-305(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-303, where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-303, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 14-305. Only if data is not available from these sources, then the following subsections (b) and (c) shall apply:

(b) 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 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.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-305(2), and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' -3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-305(2), and "elevated buildings."

(b) All new construction and substantial improvements of nonresidential 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 specified FIRM flood level, 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, the lowest floor, including basement, shall be flood proofed to at least three feet (3') above the highest adjacent grade. A 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 § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(d) The administrator shall certify the elevation or this highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A99 Zones) all provisions of § 14-304 and § 14-305(1) shall apply.

(8) Standards for unmapped streams. Located within Mountain City, 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) In areas adjacent to such unmapped streams, no encroachments including fill material or 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 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 new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with § 14-304. (1978 Code, § 4-505, as replaced by Ord. #892, June 1995, and Ord. #1165, May 2009)

14-306. Variance procedures. The provisions of this section shall apply exclusively to areas of special flood hazard within Mountain City, Tennessee.

(1) Board of zoning appeals. (a) The Mountain City Board of Zoning Appeals shall hearand 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 (see definition) 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 to preserve the historic character and design of the structure.

(c) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(i) The danger that materials may be swept onto other property to the injury of others;

(ii) The danger to life and property due to flooding or erosion;

(iii) The susceptibility of the proposed facility and its contents to flood damage;

(iv) The importance of the services provided by the proposed facility to the community;

(v) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(vi) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(vii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(viii) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(ix) 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

(x) 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, and water systems, and streets and bridges.

(d) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this ordinance.

(e) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(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 level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (as added by Ord. #892, June 1995, and replaced by Ord. #1165, May 2009)

CHAPTER 4

BUSINESS AND ADVERTISING SIGNS

SECTION
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14-401. Purpose and intent. The purpose of this chapter is to create the legal framework to control the erection, location, and maintenance of all exterior signs, billboards, and other advertising structures and devices to protect the public health, safety, morals and general welfare. In addition, the intent of this chapter is as follows:

(1) To encourage good design in the control of the overall image and visual environment of the town.

(2) To protect property values, to enhance the appearance of the business community and to stimulate the economic vitality of Mountain City.

(3) To ensure that signs are adequate, but not excessive, for the intended purpose of identification or advertisement.

(4) To prohibit the erection of signs in such numbers, sizes, designs, and locations as may create danger to the public by obscuring road signs or by diverting the attention of motorists, or as may produce an environment that encourages visual blight.

(5) To prohibit signs which are likely to create unsafe conditions because of unsound structures or unsuitable locations.

(6) To avoid excessive competition for signs so that permitted signs provide identification and direction while minimizing clutter and unsightliness. (1978 Code, § 4-601, as replaced by Ord. #1152, Dec. 2008)

14-402. General premise. The general premise for the control of signs within the Town of Mountain City includes legibility, the effective display of information, the safety of passing traffic, and the coordination of signs with buildings, landscaping and other elements of the visual environment. In particular, signs should be designed and constructed as follows:

(1) For maximum legibility, signs should be designed appropriate to the legal speed of passing traffic.

(2) For size and dimensions, signs should be related to the frontage and setback of the building.

(3) The setback and size of signs should give a fair exposure to all commercial buildings in a given area.

(4) Signs should be integrated with the architecture of the buildings to which they relate, and with the necessary landscaping.

It is further the premise of this chapter that too many signs and too much information on signs create confusion, contribute to unsafe driving conditions, distract drivers and conflict with the intent of § 14-401 by creating visual clutter and unsightliness. This chapter seeks to encourage signs which avoid excessive information and which significantly contribute to the quality of their surrounding environment. (1978 Code, § 4-602, as replaced by Ord. #1152, Dec. 2008)

14-403. Minimum standards. The minimum standards set forth in this chapter shall not relieve an owner or tenant of the responsibility for compliance with other local ordinances, codes and regulations. (1978 Code, § 4-603, as replaced by Ord. #1152, Dec. 2008)

14-404. Definitions. (1) "Abandoned sign." A sign which identifies or advertises a discontinued business, lessor, owner, product or activity, that use having been discontinued for a period of thirty (30) days or more.

(2) "Animated sign." A sign which uses movement or change of lighting or other electrical impulse to depict action or create a special effect or scene.

(3) "Business directional sign or pointer." A sign located off-site which contains the name, indication of direction, and possibly the distance to the establishment or destination.

(4) "Business sign." A sign which primarily directs attention to a business or profession conducted on premise.

(5) "Canopy sign." A sign that is a part of or attached to an awning, canopy or other productive cover over a door, entrance, window, or outdoor service area.

(6) "Commercial signs." Signs advertising, calling attention to, identifying or otherwise aiding in the promotion of the sale of products, goods, services or events, any place or business, subject, person, firm, public performance, article, medicine, merchandise or building.

(7) "Marquee sign." A sign attached to, or made part of, a marquee or other permanent roof structure that projects beyond a building face and is not supported from the ground.

(8) "Off-premise advertising sign." A sign on which advertising or other matter may be displayed promoting goods, services or other things not sold or available upon the site where the sign is located. Off-premise signs may include billboards which are changeable signs.

(9) "Portable signs." Any sign which is or is intended to be affixed or mounted to a frame for the expressed purpose of easy mobility and the intention to be readily relocated and not permanently affixed to the ground or a structure. These signs ordinarily are used for short periods of time for promotional sales, grand openings, etc. Portable signs also include sidewalk signs, A-frame signs, and signs attached to or painted on a vehicle or trailer that is parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operations of the business.

(10) "Projecting sign." A sign, which is attached in a plane approximately perpendicular to the surface of the building or structure on which it is located.

(11) "Real estate signs." On-site or directional/pointer portable or permanent signs erected by the owner, or owner's agent, advertising the sale, rental or development of the parcel of land on which the sign is located, or providing direction to a property which is for sale, lease, rent, or development.

(12) "Sign." Any communication device, structure, placard, or fixture using any object, letter, figure, design, symbol, artistic display, trademark, flag or other device intended to call attention to, identify, advertise, or aid in the promoting of the sale of products, goods, services or events, any place, subject, person, firm, business, public performance, article, machine, merchandise, or building. The term "sign" shall not be deemed to include the term "building" or "landscaping" or any architectural embellishment of a building not intended to communicate information.

(13) "Sign area." The entire area within a joined continuous perimeter which encloses the extreme limits of writing, background, representation and other sign information, but the sign area shall not include any structural elements, other than the background, which are not an integral part of the display. For the purpose of computing the allowable sign area of a double-faced sign, only one (1) face shall be considered.

(a) "Wall sign." When the sign is composed of individual letters or symbols using a wall as a background with no added decoration, the total sign area shall be the sum of the areas of the smallest rectangles which close each individual letter or symbol. Otherwise, the wall sign area will be determined by the smallest geometric shape that encloses all borders, graphics and letters as a complete sign.

(b) "Free standing." The sign area shall be the area of the smallest rectangle or geometric shape that encloses the sign and its cabinet, but not the foundation, structural or architectural features.

(14) "Sign height." The height of a sign shall be computed as the difference between the average ground level at the base of the sign and the elevation of the uppermost extremity of the sign or sign support structure. (1978 Code, § 4-604, as replaced by Ord. #1152, Dec. 2008)

14-405. Permit required. (1) No sign, except for those signs listed in § 14-406 below, shall be painted, constructed, erected, remodeled, relocated, or expanded until a sign permit has been obtained in accordance with the provisions of this chapter. When a sign permit has been issued, it shall also be unlawful to substantially modify a sign without prior approval of the building inspector. A written record of such approval shall be entered upon the original permit application and maintained in the permit record.

(2) No permit for any sign shall be issued unless the sign complies with all requirements of this chapter, and with the requirements of the ICC Codes as amended for outdoor displays, and signs, including portable signs.

(3) A sign or sign structure which is replaced to show a new trade name, a new design, different color or other changes in shape, location or size shall require a permit.

(4) All commercial and business signs, outdoor signs, and subdivision entry signs for single family and multifamily developments must be approved by the planning commission before a sign permit is issued. (1978 Code, § 4-605, as replaced by Ord. #1152, Dec. 2008)

14-406. Permit exceptions. (1) The following operations shall not be considered as creating a sign, and therefore shall not require an additional sign permit:

(a) The changing of the advertised copy or message on an approved sign which is specifically designed for the use of replaceable copy;

(b) Painting, cleaning, and other normal maintenance and repair of a conforming sign unless a structural change is made.

(2) The following enumerated signs shall be exempt from the requirements of this chapter:

(a) Signs of any constituted governmental body such as traffic signs and signals, legal notices, railroad crossing signs, danger signs, and other temporary, emergency, and non-advertising signs.

(b) Memorial tablets or signs, historic markers, corner stones, or a building name and date of erection when constructed of incombustible material.

(c) Signs required to be maintained by law such as governmental order, rule, or regulation with a total surface area not to exceed ten (10) square feet.

(d) Flags, emblems, or insignias of any constituted governmental body, religious groups, civic organizations and service clubs.

(e) Small signs displayed for the direction or convenience of the public including signs which identify rest rooms, location of public telephones, freight entrances, parking or the like with a total area not to exceed four (4) square feet. Horizontal directional signs flush with paved areas are exempt from these standards.

(f) Seasonal displays and decorations not advertising a product, services, or entertainment.

(g) Freestanding signs or signs attached to fences at approximate eye level that are no larger than four (4) square feet warning the public against hunting, fishing, trespassing, dangerous animals, swimming, or designating private property, private drive, ATM, etc.

(h) Any information or directional signs erected by a public agency to give directions and distances to commercial facilities or points of interest for the convenience of the traveling public but the signs may not give direction to any specific business establishment.

(i) Temporary window signs, except as specified in § 14-405(3), internally mounted, that do not exceed twenty-five percent (25%) of the area of the window or any glass door to which they are attached. All window signs shall be in conformance with all applicable safety, building and electrical codes.

(j) Permanent window signs except as specified in § 14-405(3). internally mounted,. that do not exceed ten percent (10%) of the area of the window or any glass door to which they are attached. All permanent window signs shall be in conformance with all applicable safety, building, and electrical codes.

(3) Except where specifically qualified below, no permit shall be required for any of the following temporary signs:

(a) Official public notices. Official notices or advertisement, required by the direction of any public or court officer in the performance of his official or directed duties or by trustees under deeds of trust, deeds of assignment or other similar instruments; provided, that all such signs

shall be removed not later than ten (10) days after the last day of the period for which they are required to be displayed.

(b) Political signs. Political preference or campaign signs for federal, state, and local elections not exceeding six (6) square feet in residential zones and B-2 (Central Business District) or not exceeding thirty-two (32) square feet in all other non-residential zones may be erected or posted on any private lot, but not within the public right-of-way. Such signs must contain no commercial message in order to be exempt. Each sign must be removed within seven (7) days after the announced results of that nomination, election or referendum. Political signs larger than six (6) square feet displayed on or upon vehicles may not be located in public parking lots or spaces after 6:00 P.M. to dawn.

(c) Non-profit temporary signs. Temporary signs not exceeding six (6) square feet in area announcing a campaign, drive or event of a civic, philanthropic, education or religious organization, provided, that the sponsoring organization shall insure proper and prompt removal of such sign. Such sign may be maintained for a period not to exceed one (1) month, and must be removed within seven (7) days of the end of a campaign or when the event has taken place.

(d) Real estate signs. Temporary, freestanding, real estate signs may be erected without a permit for any property that is offered for sale, lease or rent under the following conditions:

(i) Signs may be two-faced with the maximum total sign surface per sign face as follows:

Residential zones and B-2 (Central Business) - six (6) square feet.

All other business and manufacturing zones - thirty-two (32) square feet.

(ii) Real estate signs must be erected on private property and not on public right-of-way and shall not create any sight visibility hazard to motorists.

(iii) Such signs shall be removed within seven (7) days of the sale, rental or lease.

(iv) Directional or pointer real estate signs may be used off-site from the property for sale, lease or rental, however, such signs may not be in the public right-of-way and must be used in reasonable numbers. Directional signs must be removed on the same schedule as other real estate signs.

(v) One (1) sign is allowed per lot road frontage, however, property in excess of three (3) acres may include up to two (2) additional signs provided such signs are spaced at five hundred foot (500') intervals.

(vi) Properties for sale, lease, rent that do not have visual access from the nearest street or roadway, but can be seen from

streets further away, may have signs larger than six (6) square feet or thirty-two (32) square feet as specified in subsection (3)(d)(i) provided justification is presented and approval is issued in the form of a variance by the Mountain City Board of Zoning Appeals.

(e) Construction signs. Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction prior, to a maximum area of twenty-five (25) square feet for each sign. The sign shall be confined to the site of the construction, and shall be removed within fourteen (14) days following completion of construction. Construction signs representing state and federal funding agencies that have certain size and wording requirements as a condition of funding are exempt from the above construction sign requirements.

(f) Temporary or portable signs. Temporary or portable signs may be exempt from permitting provided they meet the following conditions:

(i) Temporary signs such as "grand opening," "under new management," "Now hiring," "Going out of business," etc. shall be posted for a period not to exceed sixty (60) days.

(ii) Only one (1) temporary sign shall be displayed at a given time for a single business, and in locations with multiple tenants only two (2) signs total may be displayed per lot at the same time.

(iii) Except as designated in subsection (3)(f)(vii) below, the total sign area per sign shall not exceed nine (9) square feet per side.

(iv) Signs may not be placed on public sidewalks or right-of-ways except in the B-2 Zone or as authorized in special event applications approved by the board of mayor and aldermen. No temporary sign authorized may be placed to cause a site distance problem, obstruction or a hazard.

(v) Temporary signs must be set back a minimum of ten feet (10') from the public right-of-way.

(vi) Temporary or portable signs must be located on the same premise or lot in which the business activity is taking place.

(vii) Portable A-boards or "sandwich board" signs may only be displayed during business hours. These signs must be located on-premises or in the B-2 zone or immediately in front of the business being promoted. Portable A-boards or "sandwich board" signs must be placed so they do not block pedestrian or vehicular traffic and where they do not create a safety hazard.

(viii) Business owners shall notify the building inspector of any placement of a portable sign upon their premise in order that the allowable time period can be observed and enforced.

(ix) Temporary or portable signs advertising such happenings as "Grand Opening, Under New Management, Going Out of Business," shall not exceed thirty-two (32) square feet, unless they are located one hundred feet (100') or more from the edge of the public street pavement where they can be larger upon approval of the board of zoning appeals. Such signs may be displayed only one (1) time in a twelve (12) month period.

(x) Temporary signs meeting the sixty (60) days criteria must be taken down by the next morning the day immediately after the sixty (60) days has expired.

(xi) Any existing non-conforming temporary or portable sign shall be discontinued or be brought into compliance no later than thirty (30) consecutive calendar days from the effective date of this ordinance comprising this chapter. (1978 Code, § 4-606, as replaced by Ord. #1152, Dec. 2008)

14-407. Prohibited signs. The following signs are prohibited from being erected or maintained in any zoning district and in any area of the Town of Mountain City:

(1) Any lighting arrangement by exposed tubing or strings of lights, outlining any portion of a building or structure or affixed to any ornamental feature thereof.

(2) Any portable sign, except as provided for in § 14-406(3)(f).

(3) Any sign that violates any provision of any law or regulation of the State of Tennessee or United States relative to outdoor advertising.

(4) Any sign that violates any provision of the ICC Codes unless specifically authorized otherwise in this chapter.

(5) Any sign so located so as to obscure all or any portion of a sign or traffic signal erected by a governmental authority.

(6) Any sign of which all or any part is in motion by means of the atmosphere, including fluttering, or rotating.

(7) Any animated sign that by movement or by other method or manner of illumination, flashes on or off, winks, strobes, blinks with varying light or color intensity, except signs meeting the following criteria:

(a) The sign is located on property in a B-2 Zone.

(b) If the sign is an electronic variable message sign, the sign owner must submit an executed agreement stating that the business understands the associated conditions in which this type sign can be used and agrees to comply with them.

(c) The sign does not attempt or appear to attempt to direct the movement of traffic, or which interferes with, imitates, or resembles any official traffic sign, signal or device.

(d) Duration of message on-time. On-time duration of an acceptable commercial electronic variable message sign should be fifteen (15) seconds for a sign panel with three (3) lines, and having twenty (20) characters per line; however, regardless of the number of lines and characters, the total length of the information cycle or the on-time period must be no less than four (4) seconds.

(e) If the sign face changes the size must have changing text; signs that display information cycles without changing text are prohibited.

(f) The sign does not have a running message with continuous movement.

(g) If the light intensity of the sign changes, it only occurs in two (2) "on" and "off" cycles during a twenty-four (24) hour period based on daylight and darkness.

(h) The brightness of the sign lumination does not cause disability glare or discomfort glare.

(i) The sign changes message, electronically or mechanically, by the appearance of complete substitution or replacement of one display by another, and in which the appearance of movement during the message display, or of messages appearing to move across the display face, is not present. Use of animated, chasing, scintillating, traveling, moving, or dissolving displays in which part or all of a message displayed on the sign appears to be moving is prohibited. Messages that appear to be written on or erased off the display face one (1) letter or one (1) word at a time or piecemeal, rather than all at once, are prohibited.

(j) In order for the message to be conveyed to the motorist quickly, clearly and unambiguously, the sign character size, spacing, and typeface must be appropriate based on the associated speed limit, sign location, and environmental factors.

(8) Any sign that obstructs any window, door, fire escape, stairway, ladder, opening or access, intended for light, air, ingress to or egress from any building.

(9) Any sign that is attached to a tree.

(10) Any sign that is attached to a utility pole, whether on public or private property, except utility warning announcements, such traffic and safety related signs as deemed necessary by the public works director, and signage, banners, flags, etc. approved on street lamps by the board of mayor and aldermen or designated committee or other such body created by the board of mayor and aldermen.

(11) Any sign, which by reason of its location, position, size, shape or color may obstruct, impair, obscure, interfere with the view of, or be confused

with any traffic control signs, signal or device, or where it may interfere with, mislead or confuse traffic, and is deemed to be a safety hazard by the building inspector or the public works director.

No sign shall use the words "Stop," "Slow," "Caution," "Yield," "Danger," "Warning," or "Go" when such sign may be confused with a traffic control sign used or displayed by a public authority.

(12) Inflatable signs, including helium or other gas which is contained within the sign, or sign parts, at a pressure greater than atmospheric pressure making it able to float.

(13) Any off-premise signs, except real estate directional signs, political signs, outdoor signs, public service/civic event signs, garage sale signs, and off-premise directional signs authorized in § 14-412 of this chapter.

(14) Any commercial sign supporting any business, etc. as defined in § 14-406(3) "commercial signs" of this chapter, that is not within the Town of Mountain City except as may be permitted through billboards.

(15) Any sign that exhibits statements, words or pictures of a racial, offensive, or obscene nature.

(16) Any sign that has sign copy that misrepresents the business use or activities being carried out on the property represented by said sign.

(17) Abandoned or dilapidated signs.

(18) Roof signs, or signs extending beyond the main roof line, unless specifically approved by the Mountain City Planning Commission.

(19) Any commercial sign located in a residential district not otherwise provided for in this chapter.

(20) Any sign that has not been permitted as required, or whose permit has been revoked.

(21) Signs which are made structurally sound by guy wires or unsightly bracing.

(22) Signs which contain reflective material, except as approved in § 14-406.

(22) Signs which advertise an activity, business, product or service not conducted on the premises upon which the signs is located, except as specifically permitted through this chapter. (1978 Code, § 4-607, as replaced by Ord. #1152, Dec. 2008)

14-408. Sign locations. Commercial signs shall be located on the property in which they are intended to promote. No commercial signs shall be on public right-of-way except as permitted by the State of Tennessee or the Mountain City Planning Commission. In addition, the following limitations apply.

(1) No signs on medians or public right-of-way. No political, real estate, civic, or other non-public exempt signage shall be posted or erected on highway medians, islands, or along public right-of-way. Mountain City Parks and Recreation, appropriate work or construction signage, and other town signage approved by the board of mayor and aldermen may be located on

medians provided the signage meets all state guidelines and all safety requirements. Unapproved signs in the public right-of-way will be removed by either the public works department or building inspector.

(2) Spacing. All permanent freestanding signs on any premise shall be spaced at minimum two hundred foot (200') intervals along each public way that views the premises, unless otherwise provided for in this chapter. Electronic variable message signs must be located a minimum of five hundred feet (500') apart.

(3) Sight distance triangle. All entrance signs and free standing signs located near the corners of an intersection, shall be located outside of the "sight distance triangle." The "sight distance triangle" is a triangle shaped area that is measured at a distance of thirty-five feet (35') running parallel to each intersecting street or roadway and the line connecting them to form a triangle. This area shall be free of any permanent or temporary signs that may inhibit clear sight visibility from motorist. Any exceptions must be approved by the State Department of Transportation and/or the Mountain City Planning Commission.

(4) Setback. All permanent signs shall be setback at least seven and one-half feet (7 1/2') from the edge of the street or public right-of-way, unless otherwise specified in this chapter. No permanent sign shall be located within a public utility or drainage easement unless authorized by the Mountain City Planning Commission and the utilities involved. Temporary signs shall be located at least ten feet (10') from the edge of the street or public right-of-way.

(5) Authority for placement. No sign and/or sign structure shall be erected on any property without the express permission of the property owner or his agent. Upon request of the building inspector, such permission granted must be made in writing. (1978 Code, § 4-608, as replaced by Ord. #1152, Dec. 2008)

14-409. Illumination/electrical compliance. Illuminated signs or signs with electricity shall adhere to the following provisions and restrictions in addition to those stated in the sign requirements by zone.

(1) The light from any illuminated sign shall be so shaded, shielded or directed that the light illuminated only the sign and does not become a safety hazard or a visual nuisance.

(2) No sign shall have blinking, flashing, strobe, or fluttering lights or other illuminating devices which have a changing light intensity, or brightness or color, beacon lights are not permitted.

(3) No colored lights, (especially red, yellow and green) shall be used at any location in any manner so as to be confused with or construed as a traffic signal device.

(4) Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public streets and thoroughfares.

(5) All signs having electrical wiring shall bear a seal of approval of Underwriters Laboratory (UL) or are other nationally recognized electrical testing laboratory. Each sign with electrical wiring must have an outside disconnect. Where appropriate, label numbers shall be registered with the building inspector at the time a sign permit is issued. (1978 Code, § 4-609, as replaced by Ord. #1152, Dec. 2008)

14-410. Structural requirements. All signs shall meet the structural requirements for same as set forth in the ICC Codes. (1978 Code, § 4-610, as replaced by Ord. #1152, Dec. 2008)

14-411. Inspection, maintenance and removal. (1) Signs for which a permit is required shall be inspected annually by the building inspector for compliance with this and other ordinances of Mountain City.

(2) All signs and components thereof shall be kept in good repair and in a safe, clean, neat and attractive condition.

(3) When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any provisions of the ICC Building Code, the owner, person, or firm maintaining the sign shall, upon written notice of the building inspector, within not more than ten (10) days make such sign conform to the provisions of this chapter or shall remove it. If within ten (10) days the order is not complied with, the building inspector may remove such sign at the expense of the owner or lessee thereof as provided in the ICC Codes.

(4) The building inspector may remove a sign immediately and without written notice if in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public.

(5) A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises and has not been so conducted for a period of one (1) year. If the owner or lessee fails to remove it, the building inspector shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the building inspector may remove the sign at the expense of the owner or lessee thereof as provided in the ICC Codes. (1978 Code, § 4-602, as replaced by Ord. #1152, Dec. 2008)

14-412. Off-premise advertising signs. Off-premise advertising signs, also commonly referred to as billboards or poster panels, but can also be any sign which advertises products, businesses, or services primarily not connected with the site or building on which the sign is located, shall be prohibited in all zones, with the following exceptions.

Signs indicating the existence of a commercial, recreational, organizational or institutional establishment not located on the parcel in which the sign is located on the following conditions;

(1) There is an established need for the off-premise sign due to topographic or other verified constraints on the property being advised.

(2) The presence of the off-premise sign can be shown to relieve confusion of motorists, traffic congestion, etc. and thus be shown to improve driver safety.

(3) There is a proper location for the off-premise sign which has the approval of the property owner.

(4) Only one (1) sign, with two (2) faces, is erected.

(5) The sign size, type, location and other specifications meets the guidelines established for the zone in which it is erected.

(6) The sign receives a variance from the Mountain City Board of Zoning Appeals. (1978 Code, § 4-611, as replaced by Ord. #1152, Dec. 2008)

14-413. Nonconforming signs. The continued existence of signs which are nonconforming is inconsistent with the stated intent and premise of this chapter as outlined in § 14-401. It is the desire of the board of mayor and aldermen, in recognition of the importance to the quality of life of Mountain City residents, that nonconforming usage of signs not tend to flourish indefinitely, and in perpetuity. The following regulations related to nonconforming signs are hereby established to the extent allowable under state law:

(1) Any legal nonconforming non-temporary signs located in a residential zone shall be discontinued or brought into compliance pursuant to this chapter not later than five (5) years from the date of the ordinance comprising this chapter.

(2) Any legally nonconforming temporary sign shall be discontinued or be brought into compliance within thirty (30) days.

(3) Commercial signs which do not conform to the regulations and restrictions prescribed in this chapter, but which were erected in accordance with all applicable regulations in effect at the time of their erection many remain in place only so long as the existing use which they advertise or identify remains, except that the advertising copy on a lawfully nonconforming marquee sign or off-premise billboard sign may be changed.

(a) No nonconforming commercial sign, except for billboards, may be structurally altered or changed in any manner, nor shall it be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign, unless the sign change or restructuring results in the sign now being in conformity with the applicable regulations of this ordinance.

(b) If a nonconforming use ceases to be a lawful nonconforming use under Tennessee State Law or through the Mountain City Zoning Ordinance, then the sign which advertises or identifies that use shall also become an ,unlawful sign and subject to abatement/removal.

(4) A nonconforming sign shall not be enlarged, expanded, extended or structurally altered so as to create additional nonconformity or to increase the

extent of the existing nonconformity. This section shall not be construed to prohibit the changing of the copy area, provided that there is no increase in the copy area or height, or change in the sign area framework, and provided that no portion of the sign is located within the right-of-way or under any electrical line.

(5) Nonconforming signs shall be brought into compliance once a change in use of the premises occurs.

(6) No nonconforming sign shall be moved on the same lot nor to another lot, in whole or in part, without the approval of the Mountain City Planning Commission, and unless the movingwill relocate the sign into a zoning district or any area in which it will conform, or unless the reconstructed or repaired sign conforms to the provisions of this chapter.

(7) In the event that a nonconforming sign is destroyed or is allowed to become dilapidated to the extent of fifty percent (50%) or more of the current cost to replace the sign, including labor and materials, the sign shall not be reconstructed or repaired, and the owner of the sign shall be required to remove the sign, regardless of other provisions contained in this chapter, unless the reconstructed or repaired sign conforms to the provisions of this chapter.

(8) A nonconforming sign or sign structure shall be removed if the building containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of the building appraised value.

(9) A sign displaying no message for ninety (90) days or signs on property in which an activity, business product or service which has not been produced, conducted or sold for a period of ninety (90) days on the premises which the sign is located shall be considered abandoned and all rights to maintain the sign shall be terminated.

(10) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign, and for sign structure through routine maintenance defined as repairing, repainting or refinishing the surface of the existing sign face or sign structure so as to maintain the appearance.

(11) Under no circumstances shall a sign deemed by the building inspector to be illegal at the time of the adoption of this chapter, be considered a legally nonconforming sign.

(12) Any sign given a variance by the Mountain City Board of Zoning Appeals that is not in compliance with regulations subsequently adopted in this chapter shall be considered in conformity provided that the area(s) of non-conformity resulting from changes in this chapter are the same areas allowed under the variance previously provided. (1978 Code, § 4-612, as replaced by Ord. #1152, Dec. 2008)

4-614. Sign regulations by district. The following regulations shall apply to all signs which require a permit by the provisions of this chapter. The regulations as set forth shall be qualified by those additional provisions which may be presented elsewhere in this chapter for particular uses.

(1) Residential districts. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are located on unused lands or are accessory to residential uses in all residential districts.

(a) One (1) sign not exceeding four (4) square feet in area shall be permitted for each dwelling unit with the exception of subsections (b), (c), (g), (h), and (h) below. Such sign shall indicate only the name of the occupant, address, or home occupation.

(b) In addition to the signs permitted by subsection (a) above, a thirty-two (32) square foot sign may be permitted to identify the name of a single family development at the major entrance thereto. Sign areas larger than thirty-two (32) square feet must be approved by the board of zoning appeals.

(c) One (1) non-permanent sign not exceeding thirty-two (32) square feet in area, advertising a subdivision development and located therein adjacent to any street bounding such development may be permitted; provided that no such sign shall be displayed for a longer time than two (2) years and shall require a permit from the building inspector. At the end of any two (2) year period, a renewal of the permit shall be obtained from the building inspector. One (1) off-site sign not exceeding thirty-two (32) square feet may be permitted subject to the conditions and approvals established in § 14-412 above.

(d) Permitted signs may be located anywhere on the premises beyond the seven and one-half foot (7 1/2') setback.

(e) Freestanding signs shall be ground mounted and shall extend no more than eight feet (8') above the ground including any part of the supporting members.

(f) Illumination, if used, shall be what is known as white and not colored light, and shall not be blinking, fluctuating, or moving. Light rays shall shine only on the sign or upon the property when the sign is located and shall not spill over the property line in any direction except by indirect reflection.

(g) Multi-family dwellings may have one (1) or more signs per building with a total permitted sign area of twelve (12) square feet per building which shall indicate only the name and address of the building. In addition, one (1), thirty-two (32) square foot sign may be permitted for each street frontage to identify the name, address, phone number and owner of the development.

(h) One (1) sign not exceeding thirty-two (32) square feet in area shall be allowed for each public owned building and use, public and private schools and churches located in a residential zone. Upon approval of the Mountain City Planning Commission and if appropriate the State of Tennessee, off-site signage to public buildings, schools, and churches may be permitted.

(2) Commercial districts. In addition to the regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are accessory to commercial use located in any commercial district.

(a) Building mounted signs on buildings housing one or more tenants shall not exceed a total of one (1) square foot of sign area on the building for each linear foot of building frontage occupied by each tenant. No individual tenant shall exceed one hundred (100) square feet. Large retailers with one (1) or more internal business components such as video, pharmacy, cafe, bakery, etc., intending to advertise on the external building wall, will be considered as one (1) or more tenants within the building complex·and total sign area combined will be based on the linear feet of building frontage.

(i) Wall signs on canopies or marquees shall be no more total square footage than is allowed for a sign on a flat building wall.

(ii) Buildings set back from the roadway more than two hundred feet (200') may have larger wall mounted building signage provided that the sign layout is submitted and approved by the Planning Commission.

(iii) The planning commission may at itsdiscretion allow larger wall mounted building signage in trade-off for a reduction in sign area on any associated freestanding sign related to the same business.

(b) Building mounted signs may be located anywhere on the surface of the building and may project not more than one foot (1') therefrom.

(c) No building mounted sign shall extend more than four feet (4') above the lowest point of the roof.

(d) Signs may be on the vertical face of a marquee but shall not project below the lower edge of the marquee. The bottom of the marquee sign shall be no less than nine feet (9') above a walkway or grade at any point. No part of the sign shall extend above the vertical marquee face, and no such sign shall exceed seven feet (7') in height.

(e) Freestanding signs and shall be ground mounted-monument signs, and shall not exceed one hundred (100) square feet of sign area. Freestanding signs shall be set back a minimum of seven and one-half feet (7 1/2') from all property lines and shall not exceed a height of fourteen feet (14') above ground level including supports. Multiple tenant commercial buildings with seven (7) or more tenants may apply for an additional eleven (11) square feet of sign area for each additional tenant above six up to a maximum of one hundred forty-four (144) square feet. The board of zoning appeals may consider variances to sign height, sign

area, and sign number requirements provided justification is submitted on one (1) or more of the following considerations:

(i) The topography around the sign creates visibility issues.

(ii) Existing landscaping creates visibility issues and it is the desire to maintain existing trees and shrubs.

(iii) Visibility, ingress and egress can be better served with more than one (1) sign.

(iv) There is a substantial sign setback.

(v) The site layout of the development lends itself to justifying a larger sign.

(f) Projecting signs may be used in lieu of a freestanding sign. When projecting signs are used, the following conditions apply:

(i) All projecting signs shall have a minimum clearance of eight feet (8') above a walkway and fifteen feet (15') above a driveway or alley.

(ii) One (1) projecting sign is permitted for each ground floor business, or at the entrance to upper level businesses.

(iii) Area. The sign may have a maximum of ten (10) square feet per business, or where multiple businesses are signed, the total square footage of all signs in one grouping may not exceed ten (10) square feet.

(iv) Location. On a single story building, no projecting sign shall be higher than fifteen feet (15') nor shall such sign project above the cornice line of its supporting building or above the parapet wall or mansard wall to which it is attached. On a multi-story building, no projecting sign shall extend above the lower sill line of the second floor windows. No projecting sign shall interfere with any part of a window or other architectural opening.

(v) No projecting sign shall extend more than four feet (4') from the wall of its supporting structure.

(g) Signs shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or other entertainment available on the same property where the sign is located, except as may be specifically permitted in other sections of this chapter.

(h) One (1) building mounted sign per street frontage per tenant is permitted. One (1) freestanding sign per street frontage per building is permitted. These signs must be located on the premises for the products or services they primarily advertise and they shall be subject to § 14-411.

(i) Service stations may be allowed one (1) additional square foot of sign on each gasoline pump to identify the specific product dispensed.

(4) Manufacturing district. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all property developed for industrial uses in areas zoned for manufacturing.

(a) Building mounted signs shall not exceed a total area of two (2) square feet for each linear foot of building frontage to a maximum total area of all signs permitted for any establishment of three hundred (300) square feet. Where the frontage is on more than one (1) street, only the sign area computed with the frontage of that street shall face that street.

(b) Signs may be flat against the wall and located anywhere on the surface of the building. Signs may be projecting signs only if the do not create any safety hazards.

(c) All signs shall have a minimum clearance of nine feet (9') above a walkway and fifteen feet (15') above a driveway or alley.

(d) No building mounted sign shall extend more than four feet (4') above the lowest point of the roof; except where there is a structural or functional part of the building extending above the roof, such as a parapet, chimney, mullion, mansard or other such architectural embellishment, signs may be placed on and limited to the face of that part and extend not more than five feet (5') above the highest point of the roof; but in no event shall a sign extend above the height limit established for the zoning district in which a sign is located.

(e) One (1) freestanding or ground-supported sign may be erected for each industrial use. Such sign shall have a maximum area of one hundred seventy-five (175) square feet, have a minimum setback of five feet (5'), and not exceed fourteen feet (14') in height including any supports.

(f) Signs allowed by this section shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or entertainment available on the same property where the sign is located. (1978 Code, § 4-613, as replaced by Ord. #1152, Dec. 2008)

14-415. Sign permit requirements. (1) Commercial signs, subdivision signs, and signs for multi-family developments shall be approved by the Mountain City Planning Commission prior to a permit being issued.

(2) Except as otherwise provided herein, no sign shall be erected, altered, or relocated without a permit issued by the building inspector.

(3) Any sign erected under permit shall indicate the number of that permit; and the name of the person, firm or corporation owning, erecting, maintaining or operating such sign.

(4) It shall be the responsibility of the company, firm, or individual constructing or planning any sign to obtain any required permit.

(5) Commercial establishments using temporary or portable commercial signs must notify the building inspector in advance of the size being displayed. (1978 Code, § 4-614, as replaced by Ord. #1152, Dec. 2008)

14-416. Permit application. The application for a sign permit shall be filed with the building inspector on forms furnished by the town. The application shall contain the location of the sign structure, the name and address of the sign owner and drawings showing the design of the sign and such other pertinent information as the building inspector or the planning commission may require to insure compliance with the ordinance of the town. Any sign located within the Town of Mountain City shall be in conformity with the uses existing in the neighborhood where it is proposed to be located. The Mountain City Planning Commission shall determine any questions concerning the conformity of a sign. (1978 Code, § 4-615, as replaced by Ord. #1152, Dec. 2008)

14-417. Fees for sign permits. (1) A nominal fee to cover administrative cost shall be charged for each sign permit issued.

(2) The building inspector or representative may charge double sign permit fees for any permit application that is not obtained prior to the beginning of sign construction at its intended location. (1978 Code, § 4-616, as replaced by Ord. #1152, Dec. 2008)

14-418. Nullification. (1) A sign permit shall become null and void if the work for which the permit was issued has not begun within a period of six (6) months after the date of the permit.

(2) In the event that construction cannot be commenced within the six (6) month period, an application for extension of an additional six (6) month period may be made to the building inspector. (1978 Code, § 4-617, as replaced by Ord. #1152, Dec. 2008)

14-419. Variances/appeals. (1) Except for instances relating to signs or sign structure located or proposed to be located on or over public property, any person who has been ordered by the building inspector to incur an expense for the alteration or removal of a sign may appeal to the board of zoning appeals. The board of zoning appeals may permit the alteration or permit the sign to remain, provided it finds that the sign is safe, necessary to the occupation which it represents, and does not conflict with the intent of this chapter.

(2) In cases where an individual enterprise located within a shopping center would be so situated as not to have frontage visible from a street, the board of zoning appeals may grant sign area for such uses to be erected at entrances. In granting such a variance, the board of zoning appeals shall limit the areas of such signs to that which in its opinion is reasonably in keeping with the provisions of this chapter.

(3) The board of zoning appeals shall hear and decide appeals where it is alleged by the permit applicant that there is an error in any permit, decision, determination, or refusal made by the building inspector or other administrative official in carrying out or enforcing any provision of this chapter.

(4) The board of zoning appeals shall hear and decide applications for variance by reason of exceptional topographical conditions, practical difficulties, or undue hardships caused by strict application of the ordinance for additional signs, sign area, sign height and sign location. (1978 Code, § 4-618, as replaced by Ord. #1152, Dec. 2008)

14-420. Violations/existing signage. Existing signage that is in violation of this chapter and was in violation of the previous sign ordinance shall continue to be in violation and shall have no implied right to exist in its urgent status as result of it being located in its current site for any extended period of time with no enforcement action. (1978 Code, § 4-619, as replaced by Ord. #1152, Dec. 2008)

14-421. Parties responsible for violations. The building inspector may determine the lessor of a property in which a sign is located that is not in compliance with this chapter; or the property owner in which the illegal sign is located; or both to be in violation. (as added by Ord. #1152, Dec. 2008)

14-422. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars ($50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (as added by Ord. #1152, Dec. 2008)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER
1. MISCELLANEOUS.
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CHAPTER 1

MISCELLANEOUS[2]

SECTION
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15-113. School safety patrols.
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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

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

15-115. Clinging to vehicles in motion.
15-116. Riding on outside of vehicles.
15-117. Backing vehicles.
15-118. Projections from the rear of vehicles.
15-119. Causing unnecessary noise.
15-120. Vehicles and operators to be licensed.
15-121. Passing.
15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
15-123. Sleigh riding on streets, etc., prohibited.
15-124. Damaging pavements.
15-125. Compliance with financial responsibility law required.
15-126. Skateboards, etc.

15-101. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, the Town of Mountain City 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 Town of Mountain City adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606, and § 55-12-139 by reference as if fully set forth in this section. (1978 Code, § 9-101, as replaced by Ord. #1063, Oct. 2006)

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. (1978 Code, § 9-106)

15-103. [Deleted.] (1978 Code, § 9-107, as deleted by Ord. #1063, Oct. 2006)

15-104. [Deleted.] (1978 Code, § 9-108, modified, as deleted by Ord. #1063, Oct. 2006)

15-105. 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. (1978 Code, § 9-109)

15-106. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the municipality for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1978 Code, § 9-110)

15-107. 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. (1978 Code, § 9-111)

15-108. 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. (1978 Code, § 9-112)

15-109. 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 town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer. (1978 Code, § 9-113)

15-110. General requirements for traffic control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,[2] published by the U. S. Department of Transportation, Federal Highway

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[1]Municipal code references

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

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

Administration, and shall, so far as practicable, be uniform as to type and location throughout the municipality. This section shall not be construed as being mandatory but is merely directive. (1978 Code, § 9-114)

15-111. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal. (1978 Code, § 9-115)

15-112. 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 municipality authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1978 Code, § 9-116)

15-113. 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. (1978 Code, § 9-117)

15-114. 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. (1978 Code, § 9-118)

15-115. 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. (1978 Code, § 9-120)

15-116. 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. (1978 Code, § 9-121)

15-117. 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. (1978 Code, § 9-122)

15-118. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (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 (200) feet from the rear of such vehicle. (1978 Code, § 9-123)

15-119. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1978 Code, § 9-124)

15-120. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1978 Code, § 9-125)

15-121. 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. (1978 Code, § 9-126)

15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor capacity that does not exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town 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, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle 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.

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

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

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

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle 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.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistent lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section. (1978 Code, § 9-127)

15-123. Sleigh riding on streets, etc., prohibited. It shall be unlawful for any person to sleigh ride on any thoroughfare, street or alley in the Town of Mountain City.

It shall be unlawful for any parent, guardian or custodian of any minor to permit or knowingly allow any minor under his supervision, care and control to sleigh ride upon the thoroughfares, streets or alleys of the Town of Mountain City in violation of this section. (1978 Code, § 9-128)

15-124. Damaging pavements. No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1978 Code, § 9-119)

15-125. Compliance with financial responsibility law required. (1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) 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, complied in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid of 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, complied 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 carried 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.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by civil penalty of up to fifty dollars ($50). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinance.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #922, April 2002)

15-126. Skateboards, etc. This section shall be known and may be cited as the skateboard safety ordinance.

(1) Definitions. For the purpose of this section, the following terms, phrases, words and their derivations have the meaning given herein:

(a) "Town," the Town of Mountain City.

(b) "Skateboard," defined as a board made of wood, fiberglass or other material or combination of materials mounted on two axles, front and rear, with two wheels made of clay, polyurethane or other material or combination of materials attached to each axle. The term "skateboard' includes motorized skateboards propelled by a motor mounted on the skateboard; or other device with which to steer or control the direction and/or movement thereof while being used, operated or ridden.

(c) "Skateboarding," is defined as lying, sitting, squatting, kneeling or standing upon a skateboard and propelling oneself by any means which causes the skateboard to move, including but not limited to; jumping on skateboard, being pulled or pushed while situated on a skateboard, pushing the ground or other surface with one foot while keeping one's other foot on the skateboard, by riding a skateboard from

one elevation to a lower elevation, or by operation of a motor mounted on the skateboard.

(d) "Public streets and highways," any street or highway which includes the entire width between the boundary lines of every way publicly maintained for the purpose of vehicular travel and also means any other publicly owned property or facility.

(e) "Public sidewalks," any walkway which includes the entire width between the boundary lines of every publicly maintained right of way for the purpose of pedestrian travel.

(f) "Public property," any other publicly owned property or facility.

(g) "Public areas," public streets, highways, sidewalks and property as defined herein.

(h) "Person," any person regardless of age.

(i) "Prohibited," cannot be used, ridden or operated.

(2) Prohibition. (a) Skateboarding is prohibited on all streets, sidewalks and alleys in the Town of Mountain City.

(b) Skateboarding is prohibited on all other public property owned or controlled by the town and on all public property owned or controlled by other governmental entities, except as may be specifically authorized by the appropriate governmental entity.

(c) Skateboarding is prohibited except in a designated area located within the town park or parks or authorized areas as agreed unto by the Town of Mountain City.

(3) Enforcement. It shall be unlawful for any person of any age to skateboard or skateboarding in violation of this section. It shall be unlawful for any parent or guardian to knowingly permit any minor to skateboard in the Town of Mountain City except as prescribed in 2(c).

The Town of Mountain City Police will issue citations to the appropriate court and either/or detain and charge any juvenile until parent or guardian can pick up the juvenile at the city police station. (as added by Ord. #926, June 2003)

CHAPTER 2

EMERGENCY VEHICLES

SECTION
15-201. Authorized emergency vehicles defined.
15-202. Operation of authorized emergency vehicles.
15-203. Following emergency vehicles.
15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1978 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.[1] (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle may be equipped with a blue light.

(2) 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.

(3) 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.

(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. (1978 Code, § 9-103)

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[1]Municipal code reference
Operation of other vehicle upon the approach of emergency vehicles: section 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1978 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1978 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION
15-301. In general.
15-302. At intersections.
15-303. In school zones.
15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1978 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of twenty (20) 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. (1978 Code, § 9-202)

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

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school, or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (1978 Code, § 9-203, modified)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the Town of Mountain City. (1978 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION
15-401. Generally.
15-402. Right turns.
15-403. Left turns on two-way roadways.
15-404. Left turns on other than two-way roadways.
15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.[1] (1978 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1978 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1978 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1978 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1978 Code, § 9-305)

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[1]State law reference
Tennessee Code Annotated, section 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

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

15-501. Upon approach of authorized emergency vehicles.[1] Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1978 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1978 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (1978 Code, § 9-403)

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the

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[1]Municipal code reference
Special privileges of emergency vehicles: title 15, chapter 2.

nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1978 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1978 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1978 Code, § 9-406)

15-507. At traffic control signals generally. Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

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

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

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

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

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

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

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

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

(4) Steady red with green arrow:

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

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

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1978 Code, § 9-407)

15-508. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the municipality it shall require obedience by vehicular traffic as follows:

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

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

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in section 15-504 of this code. (1978 Code, § 9-408)

15-509. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. (1978 Code, § 9-409)

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[1]State law reference

Tennessee Code Annotated, section 55-8-143.

CHAPTER 6

PARKING

SECTION
15-601. Generally.
15-602. Angle parking.
15-603. Occupancy of more than one space.
15-604. Where prohibited.
15-605. Loading and unloading zones.
15-606. Regulation by parking meters.
15-607. Lawful parking in parking meter spaces.
15-608. Unlawful parking in parking meter spaces.
15-609. Unlawful to occupy more than one parking meter space.
15-610. Unlawful to deface or tamper with meters.
15-611. Unlawful to deposit slugs in meters.
15-612. Presumption with respect to illegal parking.
15-613. Parking prohibited in front of fire hall; towing enforced.

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

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

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

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1978 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet. (1978 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1978 Code, § 9-503)

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

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (a) physically handicapped, or (b) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21. (1978 Code, § 9-504, modified)

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 town as a loading and unloading zone. (1978 Code, § 9-505)

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the town, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the

board of mayor and aldermen, parking shall be regulated by parking meters where the same have been installed by the Town of Mountain City. The presumption shall be that all installed parking meters were lawfully installed by the town. (1978 Code, § 9-506)

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (1978 Code, § 9-507)

15-608. Unlawful parking in parking meter spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (1978 Code, § 9-508)

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters. (1978 Code, § 9-509)

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1978 Code, § 9-510)

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1978 Code, § 9-511)

15-612. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1978 Code, § 9-512)

15-613. Parking prohibited in front of the fire hall; towing enforced. No person not a member of the Mountain City Volunteer Fire Department on official business shall park in front of the Mountain City Fire Hall in those areas designated no parking-tow-away zones. The town police shall have any vehicle parked in violation of this chapter towed by a licensed towing operator at the owner's expense. (1978 Code, § 9-513)

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. Deposit of driver license in lieu of bail.
15-707. Violation and penalty.

15-701. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town 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. (1978 Code, § 9-601)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1978 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within seven (7) days during the hours and at a place specified in the citation.

If the offense is a parking meter parking violation the offender may, within seven (7) days, have the charge against him disposed of by paying to the town recorder a fine of one dollar ($1.00) provided he waives his right to a

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[1]State law reference
Tennessee Code Annotated, section 7-63-101 et seq.

judicial hearing. If he appears and waives his right to a judicial hearing after seven (7) days but before a warrant for his arrest is issued his fine shall be two dollars ($2.00). For other parking violations the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court but the fines shall be two dollars ($2.00) within two (2) days and three dollars ($3.00) thereafter until a warrant is issued.

Where official fine receptacles are affixed to parking meter stands, persons who have received parking meter citations are authorized to deposit together with such citation the amount of the fine established in this section. (1978 Code, § 9-603)

15-704. Impoundment of vehicles. Members of the police department are 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 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. (1978 Code, § 9-604)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, section 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, sections 55-16-103 through 55-16-109. (1978 Code, § 9-605)

15-706. Deposit of driver 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 town 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 town court of this town in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person

shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the town 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 town 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, section 55-50-801 et seq. (1978 Code, § 9-606, modified)

15-707. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows:

(1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within seven (7) days, have the charge against him disposed of by paying to the city recorder a fine of one dollar ($1.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after seven (7) days but before a warrant for his arrest is issued, his fine shall be two dollars ($2.00).

Where official fine receptacles are affixed to parking meter stands, persons who have received parking meter citations are authorized to deposit together with such citation the amount of the fine established in this section.

(b) Other parking violations excluding handicapped parking. For other parking violations, excluding handicapped parking violations, the civil penalty shall be twenty-five dollars ($25.00).

(c) Handicapped parking. Parking in a handicapped parking space shall be punished by a civil penalty of one hundred dollars ($100.00).

TITLE 16

STREETS AND SIDEWALKS, ETC.[1]

CHAPTER
1. MISCELLANEOUS.
2. EXCAVATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION
16-101. Obstructing streets, alleys, or sidewalks prohibited.
16-102. Trees projecting over streets, etc., regulated.
16-103. Trees, etc., obstructing view at intersections prohibited.
16-104. Projecting signs and awnings, etc., restricted.
16-105. Banners and signs across streets and alleys restricted.
16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
16-107. Littering streets, alleys, or sidewalks prohibited.
16-108. Obstruction of drainage ditches.
16-109. Abutting occupants to keep sidewalks clean, etc.
16-110. Parades, etc., regulated.
16-111. Animals and vehicles on sidewalks.
16-112. Fires in streets, etc.
16-113. Horses prohibited on public trails and sidewalks.

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. (1978 Code, § 12-101)

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 over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1978 Code, § 12-102)

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

[1]Municipal code reference
See title 9 in this code for related motor vehicle and traffic regulations.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1978 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.[1] (1978 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1978 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1978 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1978 Code, § 12-107)

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.

When any person builds any new street, road, or driveway across an open ditch or drainage facility to connect with an existing street he must lay a drainage tile of a minimum size of twelve (12) inches beneath such new street, road, or driveway to prevent surface water from collecting or running onto the streets or property of another. (1978 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow or ice from the abutting sidewalk. (1978 Code, § 12-109)

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[1]Municipal code reference

Building code: title 12, chapter 1.

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 clean up the resulting litter immediately. (1978 Code, § 12-110)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1978 Code, § 12-111)

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1978 Code, § 12-112)

16-113. Horses prohibited on public trails and sidewalks. (1) It shall be unlawful to ride, walk or otherwise place a horse on any public trail or sidewalk in the Town of Mountain City.

(2) A violation of this section may result in a citation to municipal court and a fine of up to $50. (as added by Ord. #962, Dec. 2004)

CHAPTER 2

EXCAVATIONS[1]

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, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town recorder is open for business, and the permit shall be retroactive to the date when the work was begun. (1978 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the town 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

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[1]State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1978 Code, § 12-202)

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) 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. (1978 Code, § 12-203)

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 town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town 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 town if the applicant fails to make proper restoration. (1978 Code, § 12-204)

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. (1978 Code, § 12-205)

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 town shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, 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 municipality will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, 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. (1978 Code, § 12-206)

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 the liability insurance for bodily injury shall not be less than $100,000 for each person and $300,000 for each accident, and for property damages not less than $25,000 for any one (1) accident, and a $75,000 aggregate. (1978 Code, § 12-207)

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 town if the town 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. (1978 Code, § 12-208)

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 town 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. (1978 Code, § 12-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five (35) feet in width at its outer or street edge and when two (2) or more adjoining driveways are

provided for the same property a safety island of not less than ten (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1978 Code, § 12-210)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER
1. REFUSE STORAGE AND COLLECTION.

CHAPTER 1

REFUSE STORAGE AND COLLECTION

SECTION
17-101. Refuse defined.
17-102. Premises to be kept clean.
17-103. Storage.
17-104. Location of containers.
17-105. Disturbing containers.
17-106. Collection.
17-107. Collection vehicles.
17-108. Disposal.
17-109. Service fees.
17-110. Billing and collection.
17-111. 1994-1995 solid waste policy--fees--guidelines.

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. (1978 Code, § 8-201)

17-102. Premises to be kept clean. All persons within the town 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. (1978 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the Town of Mountain City where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity

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[1]Municipal code reference
Property maintenance regulations: title 13.

of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the town handles mechanically. Furthermore, except for containers which the town 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 (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1978 Code, § 8-203)

17-104. Location of containers. Where alleys are used by the town refuse collectors, containers shall be placed on or within six (6) feet 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 town 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 be no curb, at such times as shall be scheduled by the town 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. (1978 Code, § 8-204)

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. (1978 Code, § 8-205)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of by the Town of Mountain City. Collections shall be made regularly in accordance with an announced schedule. No pick up of garbage or refuse will be made unless the proper containers are used and meet all other requirements of this chapter. (1978 Code, § 8-206)

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. (1978 Code, § 8-207)

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 board of mayor and aldermen is expressly prohibited. (1978 Code, § 8-208)

17-109. Service fees. A service fee of $1.00 per month is assessed to all non-tax paying corporations, organizations and institutions within the corporate limits of the Town of Mountain City that are furnished refuse removal services. Apartments or multi-unit housing projects are assessed $1.00 per month for each occupied unit. (1978 Code, § 8-209)

17-110. Billing and collection. The refuse removal assessment will be billed and collected by the town recorder jointly with the monthly water bills and shall be adjusted periodically to reflect costs fluctuations for providing this service. (1978 Code, § 8-210)

17-111. 1994-1995 solid waste policy--fees--guidelines. The Town of Mountain City will impose the following fee schedule to all residential, small business and commercial business with dumpster service, effective July 01, 1994. The need to impose this fee has come about because of the continued increase in landfill tipping fees and anticipated higher fees at the new transfer station to be operational by year's end.

FEE SCHEDULE

$2.00 per month per residential (To include each unit if more than one unit per water meter; i.e. - 1 meter serving 4 units = 4 x $2.00 per month = $8.00 monthly).

$5.00 per month per small business (Small business defined as any business which generates less than 60 gallon (2 trash cans) per week.

$10.00 per month per medium business (Medium business defined as any business which generates less than 120 gallon (4 trash cans) per week.

*NOTE - Any business which generates more than 120 gallon (4 trash cans) per week MUST purchase a DUMPSTER to continue their garbage service and at that time will be charged the dumpster fee.

Dumpster Fees

Charge will be based on size and frequency dumped. Fee will be comparable to BFI/Roll-it the private hauler within the city. Each local business with dumpster has the choice of private hauler or city service. The city recorder will set fee based on BFI/Roll-it fees if business desires to stay with city service.

The above solid waste fees will be added to each customer's water bill and due and payable with water bill. All delinquent accounts will be assessed the customary late fee of 10% as applied to water bills.

Also, effective July 01, 1994, the city will refuse to empty or service any business or anyone else using 55 gallon barrels or drums. The customers will be responsible for clean up around or for the overflow that ends up on the ground because dumpsters or containers were over-filled. The owner will be responsible for securing or protecting their dumpsters from illegal use or individuals. The owner will be responsible for keeping dumpster site clear from building or etc., allowing the truck to pick up and dump without hinderance. The owner will be responsible for any and all maintenance or replacement when dumpster becomes worn out or in-operable. (Ord. 886, May 1994)

TITLE 18

WATER AND SEWERS[1]

CHAPTER
1. WATER AND SEWERS.
2. GENERAL WASTEWATER REGULATIONS.
2A. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
4. STORMWATER MANAGEMENT ORDINANCE.

CHAPTER 1

WATER AND SEWERS

SECTION
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[1]Municipal code references
Building, utility and housing codes: title 12.
Refuse disposal: title 17.
Charter reference: art. VI, § 1(24).

18-125. Limited use of unmetered private fire line.
18-126. Damages to property due to water pressure.
18-127. Liability for cutoff failures.
18-128. Restricted use of water.
18-129. Interruption of service.
18-130. Water loss adjustment policy.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the town and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1978 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the town under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the town to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the town's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1978 Code, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the Town of Mountain City before connection or meter installation orders will be issued and work performed. (1978 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the town for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the town to

render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the town to the applicant shall be limited to the return of any deposit made by such applicant.

Persons occupying premises under a rental or lease contract shall be required to make an advanced deposit with the town equal to one quarter of the annual fee charged for use of water. At the termination of the water contract, the town will refund to the customer the balance if any remaining over and above any unpaid fee owed to the town. Provided, further, that any sum owed and unpaid by the customer in excess of the deposit shall become a legal obligation against such former customer. (1978 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1978 Code, § 13-105)

18-106. Connection charges. Service lines will be laid by the Town of Mountain City from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the town.

Before a new water or service line will be laid by the town, the applicant shall make a deposit equal to the estimated cost of the installation plus a $50.00 nonrefundable connection fee.

The deposit shall be used to pay the cost of laying such new service line and appurtenant equipment. If such cost exceeds the amount of the deposit, the applicant shall pay to the town the amount of such excess cost when billed therefor. If such cost is less than the amount of the deposit, the amount by which the deposit exceeds such cost shall be refunded to the applicant.

When a service line is completed, the town shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the town. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer. (1978 Code, § 13-106)

18-107. Water and sewer main extensions and service permissive. The authority to make water and/or sewer main extensions and to provide water and wastewater service inside or outside the city by Mountain City is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. (1978 Code, § 13-108, as replaced by Ord. #917, April 2001)

18-108. Fees and costs. (1) Application fee. Persons, businesses, or developers desiring water or wastewater utility service must make application

with the city recorder and pay a non-refundable residential or commercial application fee. The superintendent shall investigate the feasibility of providing that service and report to the applicant with clear instructions regarding the city's requirements for providing that service.

(2) Tap fees. (a) Before a new connection is made to the water or sewer system or an existing customer increases service requirements by expansion of the original served facilities, a tap fee shall be assessed and collected by the city. The tap fee is composed of two parts: a connection charge and, if applicable, an installation charge.

(b) The connection charge is for the purpose of enabling the city to periodically upgrade its facilities as required by the addition of new customers. The connection charge is assessed whenever a new connection is made to the city system or an expansion of change is made to the original facilities served, which increases the demand on the sewer system.

(c) The installation charge is to cover the cost of tapping the main line and extending it to the property line for connection to the customer's services line. Service lines are installed by the customer to the city's specifications and must be inspected by the superintendent or his designee.

(d) Costs related to the extension of water and sewer mains and appurtenances are generally to be borne by the developer or the abutting property owners. (1978 Code, § 13-109, as replaced by Ord. #917, April 2001)

18-109. Water and sewer main extensions. (1) Existing inside lots. The city may extend a main along an improved public street or highway within the city for the benefit of applicants who have property abutting on the street or highway along which the main is being extended, and whose property after the extension will be contiguous to said main. Such extensions will be made on application of one or more applicants and only after the applicant has made a deposit equal to the estimated cost of the extension. All extensions shall be at the expense of the applicant or applicants. When the city desires a main larger than that required for the applicants needs, the city will be responsible for the difference between what is needed to serve the applicant and the desires of the city. The city may also participate in main extensions when warranted by high volume consumption, favorable return on investment, overall economic impact on the community, or where there is a threat to public health. When sewer mains are extended abutting houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, or public right-of-way must connect to the sewer according to § 18-202, Connection to public sewers, of the Mountain City Code.

(2) Inside and outside development. (a) Developers desiring water and/or sewer main extensions must pay all of the cost of making such extensions. When the city desires a main larger than that required for the development, the city will reimburse the applicant for the difference between the two. Recovery of costs related to installation of mains along public streets and highways between existing city mains and developer's property line must be negotiated and agreed upon prior to construction approval.

Developers desiring water and/or sewer main extensions must make application to the water and wastewater superintendent prior to any design or construction for the purpose of determining availability of lines and treatment capacity to serve the proposed extensions. The superintendent shall give the applicant a written statement stating the line and treatment capacity status of the system in the desired area, and where new lines may be connected into the existing system. If capacity is available for the requested extension, the applicant must then follow the details of this extension ordinance and other policies established by the utility department. If capacity is unavailable the mayor and board of aldermen may require the applicant to bear all costs associated with capacity improvements imposed upon the city by the applicants development.

(b) The applicant must secure the service of an engineer registered in Tennessee to draft plans and specifications. Submit those of the Tennessee Department of Environment and Conservation for compliance with the appropriate design criteria as required by state law or regulation.

(c) The superintendent shall then approve or disapprove the extension plan. He may request additional requirements but cannot allow construction at lower standards than the appropriate Tennessee Design Criteria. The superintendent shall then make his recommendation to the mayor and board of aldermen, who may approve the plan or request additional requirements but may not relax design criteria requirements.

(d) When the developer has TDEC and city approval, construction may begin under the following procedures.

(i) TDEC Design Criteria must be strictly followed;

(ii) Construction located on private property shall have a utility easement to the city;

(iii) The city reserves the right to inspect all lines and appurtenances including service lines and deny service to the development or customer in cases of substandard construction or materials;

(iv) The design engineer must certify to the city:

(A) Construction fully complies with all TDEC Design Criteria;

(B) All materials and construction have been fully inspected, tested and passed according to design criteria, with results of all pressure, vacuum and, mandrel testing provided.

(v) Accurate as-built drawings must be provided as part of certification.

(vi) Upon satisfactory completion of the extension, the city will give written notice of acceptance. Twelve (12) months following the date of acceptance, said main will become the property of the city. Within that twelve (12) month period the applicant will be liable for all maintenance and repairs on said main(s) that are the result of defective materials and/or workmanship. A performance bond no less than 10% of the value of the main construction must be posted assuring repairs are performed during the warranty period.

(vii) Final tapping of developer lines to city lines will be made only by city personnel or under the direct supervision of the superintendent.

(viii) Water or wastewater utility service will be provided to the new extension only after full compliance with these requirements.

(ix) Taps may be made by the developer to prevent future pavement cuts, but only under the following conditions:

(A) All equipment has been specifically approved by the superintendent. This includes meter sets, meter boxes, and other and all materials or equipment.

(B) Water meter boxes must be well marked and protected from damage.

(C) Sewer taps must be extended onto the property with a cleanout installed within five feet of the property line, and they must be marked and protected from damage.

(D) As built drawings clearly identify tap locations.

(E) As service lines are connected to taps:

(1) Superintendent of his designee must inspect the connection and service line installation.

(2) Only city employees will install water meters when full billing information has been established.

(3) City will charge installation fees if developer installed taps must be located, excavated, or moved.

(3) Sewer service without Mountain City Water Service. Wherever sewer service is requested and water service is provided by another utility, a billing, collecting, and cutoff agreement must be in place prior to approval of sewer line construction. (as added by Ord. #917, April 2001)

18-110. City comply with State Design Criteria. The city and all subcontractors of the city will also follow all the requirements of utility construction set forth by the Department of Environment and Conservation. (as added by Ord. #917, April 2001)

18-111. Meters. All meters shall be installed, tested, repaired, and removed only by the Town of Mountain City.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the town. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1978 Code, § 13-110, as renumbered by Ord. #917, April 2001)

18-112. Meter tests. The town will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	Percentage
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The town will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

Meter Size	Test Charge
5/8", 3/4", 1"	$2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the Town of Mountain City. (1978 Code, § 13-111, as renumbered by Ord. #917, April 2001)

18-113. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the board of mayor and aldermen may from time to time adopt by appropriate ordinance or resolution.[1] (1978 Code, § 13-112, as renumbered by Ord. #917, April 2001)

18-114. Multiple services through a single meter. No customer shall supply water or sewer service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the town.

Where the town allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the town's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1978 Code, § 13-113, as renumbered by Ord. #917, April 2001)

18-115. Billing.[2] Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the municipality.

Both charges shall be collected as a unit; no town employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

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[1]Administrative ordinances and resolutions are of record in the recorder's office.

[2]See code section 17-111 for authority to add solid waste fees to customer's water bills.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before ten (10) days after the discount date. The town shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the town if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the town reserves the right to render an estimated bill based on the best information available. (1978 Code, § 13-114, as renumbered by Ord. #917, April 2001)

18-116. Discontinuance of service policy. (1) Reasons for discontinuance of service.

(a) Non payment of bill or other charges

(b) Partial payment of bill or other charges

(c) Failure to comply with utility rules, regulations or policies

(d) Any threat to public health on the customers premises which may endanger other customers

(e) Tampering with utility equipment or stealing service

(f) In the event that a customer has allowed more than one (1) service on one (1) tap

(g) Return checks (bad checks) on payment for any reason after one (1) attempt to contact customer

(2) Second notice. There will be no second notice (if unpaid ten (10) days after gross amount due date, service subject to be discontinued without further or second notice). The above is printed on reverse side of Town of Mountain City utility bills.

(3) When services will be discontinued. (a) In no event will any customer connection be allowed service beyond one (1) delinquent month and the current due payment.

(b) Service cutoffs for non-payment or partial payment of bills will be handled in accordance with the workload of utility personnel and city hall personnel.

(4) Disputed bills. When a customer receives a bill and considers the bill to be incorrect the customer may request a review of the bill. To request a review, the customer must contact any city hall employee in person or by telephone within ten (10) days of receiving the notice. In the event the dispute cannot be received by telephone, the customer must make an appointment to

meet with city hall employee or city recorder. No bill adjustments will be made within five (5) days of the monthly due date. The customer's service will not be discontinued for failure to pay a disputed bill until the customer has the opportunity to meet with town personnel. This policy will not be allowed for customers to use as delay tactics delaying discontinuance. No delinquent bills will be adjusted; therefore, if the customer fails to promptly request meeting, adjustment according to policy then the customer forfeits that right. Proof of repairs is mandatory to prove leaks/leak repairs relative to an adjustment.

Procedure for customer bill protests

The customer may request that the disputed bill be reviewed by the mayor and/or city council by making an appointment with the mayor or attending monthly council meeting after making written request notice to city recorder. Such request will not delay the discontinuance of service.

(5) For the benefit of the customer, normal service cutoffs will not be made on Friday or on the day immediately preceding a holiday.

(6) In the following situations the Town of Mountain City reserves the right to discontinue service without customers notice:

(a) When in the opinion of the town a situation exists that may endanger public health

(b) When there is evidence of tampering with utility equipment or stealing of service

(c) When it is discovered that a misrepresentation of identity was made in obtaining service

(d) Upon receipt of a worthless check as returned by financial institution

(e) If customer has leaks on his/her side of meter; has been requested to repair but without compliance by customer; to stop water loss

(7) Reconnection days. Service will be reinstated only during regular working hours, Monday through Friday, except in case of an emergency, or a mistake by town personnel. Also, reinstatement requires payment in full plus any applicable fees. Cash only basis will be applied to large balances that exceed $100.00 or if the town has a known history of check problems with customers.

(8) Failure of customer to receive bill. Utility bills are a recurring charge. Failure by the customer to receive a utility bill will not entitle the customer to be relieved of payment and the appropriate late fee if applicable. Failure to notify the Town of Mountain City of an address change will not relieve either the bill and/or the applicable late fees.

(9) Reconnection charge. (a) The customer shall pay all costs for the discontinuance of service including any reconnection charge, damage charges/cost and assessment charge relative to a worthless check.

(b) All transactions must be made in person at city hall; no service personnel will accept payment in the field.

(10) Liability of customer and the Town of Mountain City. Discontinuance of service by the Town of Mountain City Water/Sewer System shall not release the customer from liability for payment of services already received or from liability from payments that thereafter become due under the minimum bill provisions or other provisions that the customer agreed to upon initial service request.

(11) The Town of Mountain City, or its water/sewer system known as, the Town of Mountain City Water/Sewer System shall not be liable for any loss or damage resulting from discontinuance of service.

(12) Eviction of tenants. A landlord shall not use the discontinuance of service to his or her property to force a tenant or occupant to surrender possession of the property. The landlord shall use appropriate legal means for that purpose.

(13) Customer of record is accountable for charges. The customer(s) whose name appears on the application for service is (are) the customer(s) responsibility for payment of all charges. That customer is also responsible for any rules or policy violations that occur regarding the utility service to that property. Personal participation by the customer in any such violation shall not be necessary to impose personal responsibility on the customer.

(14) Collection expense. In the event any customer fails to pay any utility fee or charge, the customer shall pay all costs of collection including court costs and reasonable attorney's fees incurred by the Town of Mountain City Water/Sewer System in collecting such sums.

(15) No new service to delinquent accounts. (a) The Town of Mountain City shall have the right to refuse to render service to an applicant or to any member of an applicant's household who is living at the same address whenever such person(s) is (are) delinquent on any payment to the Town of Mountain City Water/Sewer System or had his or her service discontinued because of a violation of the policy or agreements of the Town of Mountain City.

(b) If an emergency medical service customer cannot pay a bill or other charge, it shall be the customer's responsibility to find a social service agency or charitable group to assist the customer to prevent the eventual discontinuance of service for non-payment.

(16) Cutoff in writing or in person. The customer in whose name the service is furnished may request termination of service by mail or in person at the office of the Town of Mountain City, city hall which handles all such requests, work orders & etc. relative to termination of service. No telephone requests for cutoffs will be honored.

(17) Termination of service. Each customer must give a minimum of seven (7) days notice to the Town of Mountain City of a service termination. The

customer will be responsible for all charges, which occur to the end of the seven (7) day period including the minimum charge.

(18) Where the Town of Mountain City Water/Sewer System is furnishing service to an occupant of premises under an account not in the occupant's name, the Town of Mountain City reserves the right to impose the following conditions on the right of the customer to discontinue service under such an account:

(a) Written notice of the customer's desire for such service to be continued may be required

(b) The Town of Mountain City shall have the right to continue such service for a period not to exceed two (2) business days after receipt of such written notice, during which time the customer will be responsible to the Town of Mountain City for all charges for such service. (1978 Code, § 13-115, as renumbered by Ord. #917, April 2001, and replaced by Ord. #927, May 2003)

18-117. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of fifty dollars ($50.00) shall be collected by the town before service is restored. (1978 Code, § 13-116, as renumbered by Ord. #917, April 2001)

18-118. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the town reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the municipality shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the town should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the town to enter into a contract for service in the occupant's own name upon the occupant's complying with these

rules and regulations with respect to a new application for service. (1978 Code, § 13-117, as renumbered by Ord. #917, April 2001)

18-119. Access to customers' premises. The Town of Mountain City's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the town, and for inspecting customer's plumbing and premises generally in order to secure compliance with these rules and regulations. (1978 Code, § 13-118, as renumbered by Ord. #917, April 2001)

18-120. Inspections. The town shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The town reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the town.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the town liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1978 Code, § 13-119, as renumbered by Ord. #917, April 2001)

18-121. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the town shall be and remain the property of the town. Each customer shall provide space for and exercise proper care to protect the property of the town on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1978 Code, § 13-120, as renumbered by Ord. #917, April 2001)

18-122. Customer's responsibility for violations. Where the town furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1978 Code, § 13-121, as renumbered by Ord. #917, April 2001)

18-123. Supply and resale of water. All water shall be supplied within the town exclusively by the town and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the town. (1978 Code, § 13-122, as renumbered by Ord. #917, April 2001)

18-124. Unauthorized use or interference with water supply. No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the town. (1978 Code, § 13-123, as renumbered by Ord. #917, April 2001)

18-125. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the town.

All private fire hydrants shall be sealed by the town, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the town a written notice of such occurrence. (1978 Code, § 13-124, as renumbered by Ord. #917, April 2001)

18-126. Damages to property due to water pressure. The town shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the town's water mains. (1978 Code, § 13-125, as renumbered by Ord. #917, April 2001)

18-127. Liability for cutoff failures. The town's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a water service, the town has failed to cut off such service.

(2) The town has attempted to cut off a service but such service has not been completely cut off.

(3) The town has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the town's main.

Except to the extent stated above, the Town of Mountain City shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the town's cutoff. Also, the customer (and not the town) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1978 Code, § 13-126, as renumbered by Ord. #917, April 2001)

18-128. Restricted use of water. In times of emergencies or in times of water shortage, the Town of Mountain City reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1978 Code, § 13-127, as renumbered by Ord. #917, April 2001)

18-129. Interruption of service. The town will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The town shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the town water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The Town of Mountain City shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1978 Code, § 13-128, as renumbered by Ord. #917, April 2001)

18-130. Water loss adjustment policy.[1] (1) That whenever an individual customer signs an affidavit attesting to the fact that his or her water bills, in whole or in part are the result of a major loss of water in their interior water distribution system, the bill will be adjusted to a level equal to the twelve (12) months average bill for the particular customer.

(a) As part of the affidavit the customer will verify that the problem has been repaired.

(b) The bill for water will be adjusted as follows: the town will calculate the average water bill based on the customer's twelve (12) month usage history. If the customer has been in service for less than twelve (12) months, the average will be based on the usage information available.

(c) However, no delinquent bill will be adjusted.

(2) The individual customer sewer bill will be adjusted to a level equal to the twelve (12) month average when the major loss of water does not enter the sewer collection system.

(3) The customer of a specific meter installation shall receive one (1) adjustment, due to major water loss, to their individual billing in a twelve (12) month billing period, that period commencing with the billing cycle in which the adjustment is given.

(4) There will be no adjustments made under the amount of $5.00. When adjustment is asked for and numbers are figured in which the outcome is less than that of the said $5.00 minimum, the adjustment will not be made.

(5) The filling of an individual customer swimming pool will entitle them to a sewer adjustment if filled by meter, however if filled in other ways (i.e. a fire department) then the water must be purchased first with the fire department coordinating the removal of water from the town's system through the collection/distribution superintendent prior to any removal of water.

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[1]Includes sewer adjustments.

The customer must sign an affidavit attesting to the fact the water usage above average, is the result of the filling of an individual customers swimming pool, the customer's sewer bill will be adjusted to the average bill based on the twelve (12) month usage history of the customer.

(6) In the calculation average, if there is not a twelve (12) month usage history then what usage history is available will be used.

Town of Mountain City
Customer Affidavit
Water/Wastewater System

Affidavit of Water Leak

I, ______________________________, by my signature below do affirm that I had a water loss in my interior distribution system and request an adjustment of my water and sewer bill due date of ________________. I further affirm that I have repaired my system by receipts for parts and/or a plumber for repairs. I further understand that I am entitled to only one adjustment on an annual (12 month) basis.

______________________________ ______________________
Town of Mountain City Employee Signature

____
Date

Customer Account #:________________________

**Footnote: Adjustment must be more than $5.00; we do not adjust balances under $5.00.

Town of Mountain City
Customer Affidavit
Water/Wastewater System

Affidavit Relative to Swimming Pool

I, ______________________________, by my signature below request ____________________ Fire Department to be allowed to fill my residential swimming pool. I agree to pay for water and get a city receipt for said water which will allow the said Fire Department to contact the Collection/Distribution Superintendent to make arrangements to remove water from the Town's System as instructed by the Collection/Distribution Superintendent.

______________________________ ______________________________
Town of Mountain City Employee Signature

____
Date

Customer Account #:______________________________

Town of Mountain City
Customer Affidavit
Water/Wastewater System

Affidavit Relative to Swimming Pools

I, ______________________________, by my signature below do affirm that I filled my individual swimming pool through my residential water meter. I also understand I can ask for an adjustment to my sewer bill since the swimming pool water will not be discharged into the Town's Sewer System.

______________________________ ______________________________
Town of Mountain City Employee Signature

____
Date

Customer Account #:____________________________

(7) Customers who receive an adjustment for a water loss may also apply for the sewer adjustment for filling a swimming pool. Customers who receive a sewer adjustment for filling a pool may also apply for an adjustment due to water loss in the customers internal distribution system.

Current Fee Schedule
(subject to change by budget ordinance annually by the Town of Mountain City)

(a) A $50.00 non-refundable deposit to obtain initial service.
(b) A $25.00 re-connection charge if service is terminated for non-payment.
(c) A $30.00 return check charge for all return checks regardless of the reason.
(d) Tampering or destroying of city property is 100% reimbursement of material and water usage including court costs and attorney fees if legal action is necessary.
(e) All water/sewer rates as well as tap fees will be set annually as part of the Town of Mountain City's annual operating budget duly passed by the Board of Mayor and Aldermen of the Town of Mountain City.

Additional Policy Relative to Water/Sewer Tap Fees

The Town of Mountain City will extend service to new customers that include residential, commercial and industrial taps. The town will extend no credit or installments by month the cost of said water and/or sewer taps.

The total cost of any tap fee (water or sewer) plus any applicable cost associated with said tap will be paid for fully prior to the issuance of a work order that begins the process whereby the town personnel will actually make tap and set meter.

The town does not and will not extend credit for any purpose relative to our water/sewer system. (as added by Ord. #927, May 2003)

CHAPTER 2

SUPPLEMENTARY SEWER REGULATIONS

SECTION
18-201. Purpose and policy.
18-202. Administrative
18-203. Definitions.
18-204. Proper waste disposal required.
18-205. Private domestic wastewater disposal.
18-206. Connection to public sewers.
18-207. Septic tank effluent pump or grinder pump wastewater systems.
18-208. Regulation of holding tank waste disposal or trucked in waste.
18-209. Discharge regulations.
18-210. Enforcement and abatement.

18-201. Purpose and policy. This chapter sets forth uniform requirements for users of the Town of Mountain City, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

(1) To protect public health;

(2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;

(3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;

(4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(5) To promote reuse and recycling of industrial wastewater and sludge from the facility;

(6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and

(7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the Town of Mountain City must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable

wastewater to the wastewater treatment facility. Chapter 2 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 2 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (1978 Code, § 13-201, as replaced by Ord. #1150, Dec. 2008)

18-202. Administrative. Except as otherwise provided herein, the mayor shall serve as the local administrative officer and shall administer, implement, and enforce the provisions of this chapter. The board of mayor and aldermen shall serve as the local hearing authority. (1978 Code, § 13-202, as replaced by Ord. #1150, Dec. 2008)

18-203. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, et seq.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(4) "Authorized or duly authorized representative of industrial user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been

assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (a)--(c), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for enviromnental matters for the company, and the written authorization is submitted to the city.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-209 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees (20°) centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The National Categorical Pretreatment Standards or Pretreatment Standard as found in 40 CFR Chapter I, Subchapter N, Parts 405-471.

(9) "City." The Board of Mayor and Aldermen, Town of Mountain City, Tennessee.

(10) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(11) "Compatible pollutant." Shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing 'authority if the city has an approved Pretreatment Program under the provisions of 40 CFR 403.11.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(20) "Environmental Protection Agency, or EPA." The U. S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency..

(21) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(22) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(23) "Grease interceptor." An interceptor whose rated flow is fifty (50) g.p.m. (gallons per minute) or less and is generally located inside the building.

(24) "Grease trap." An interceptor whose rated flow is fifty (50) g.p.m. or more and is located outside the building.

(25) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tallies, and vacuum-pump tank trucks.

(26) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(27) "Indirect discharge." The introduction of pollutants into the WWF from any nondomestic source.

(28) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. § 1342).

(29) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(30) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration ofthe sampling event.

(31) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(32) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(33) "Local administrative officer." The chief administrative officer of the local hearing authority.

(34) "Local hearing authority." The board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to section 205.

(35) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C.§ 1347) which applies to a specific category of industrial users.

(36) "NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) system.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(38) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act, as amended.

(39) "Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(40) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(44) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR section 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(48) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C.§ 1292) which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect

discharges to and the discharges from such a treatment works. See WWF, Wastewater Facility, found in definition number (63), below.

(49) "Shall" is mandatory; "may" is permissive.

(50) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(51) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8. (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under section 205(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(52) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate theo WWF's regulations, local limits, or permit conditions.

(53) "Standard Industrial classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(54) "State." The State of Tennessee.

(55) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(56) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(58) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(59) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other acts.

(60) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(61) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability, Tennessee Code Annotated, § 68-221-201.

(62) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

(63) "Wastewater facility." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or publicly owned treatment works.

(64) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(65) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (1978 Code, § 13-203, as replaced by Ord. #1150, Dec. 2008)

18-204. Proper waste disposal required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this ordinance or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in (6) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter, Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Where a public sanitary sewer is not available under the provisions of (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205 of this chapter.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (1978 Code, § 13-204, as replaced by Ord. #1150, Dec. 2008)

18-205. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-204(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department. (1978 Code, § 13-205, as replaced by Ord. #1150, Dec. 2008)

18-206. Connection to public sewers. (1) Application for service.

(a) There shall be two (2) classifications of service;

(i) Residential; and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this ordinance shall be completely and permanently disconnected within sixty (60) days of the effective day of the ordinance comprising this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of ground water shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application to the city. The connection application shall be supplemented by any plans, specifications or other information considered pertinent in

the judgment of the superintendent. A service connection fee shall be paid to the city at the time the application is filed. The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system - four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: four inch (4") sewers - one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than

seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended. to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitling using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-207 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump

pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow storm water or ground water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city in chapter 1 of title 18 of the Mountain City Code. (1978 Code, § 13-206, as replaced by Ord. #1150, Dec. 2008)

18-207. Septic tank effluent pump or grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the city.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the city.

(b) Pumps must be approved by the city and shall be maintained by the city.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) Ownership and easements. Homeowners or developers shall provide the city with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the city to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and

remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the city. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.

(7) Additional charges. The city shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (1978 Code, § 13-207, as replaced by Ord. #1150, Dec. 2008)

18-208. Regulation of holding tank waste disposal or trucked in waste.

(1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-2A07 of this chapter. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the Town of Mountain City.

(5) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (1978 Code, § 13-208, as replaced by Ord. #1150, Dec. 2008)

18-209. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-210 or 18-2A05. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, wastestreams with a closed cup flash point of less than 1400 F or 600 C using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chiorates, perchlorates, bromate, carbides,

hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Centigrade (40°C) (one hundred four degrees Fahrenheit (104° F)) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40

CFR 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state of federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Enviroument and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 2A may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table

A - Plant Protection Criteria, unless specifically allowed by their discharge petmit according to Chapter 2 of this ordinance. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A Plant Protection Criteria

Parameter	Maximum Concentration (mg/l)
Arsenic	0.03008
Benzene	0.013
Cadmium	0.0065
Carbon tetrachloride	0.250
Chloroform	0.2236
Chromium III	1.000
Chromium VI	1.000
Copper	0.160
Cyanide	0.0176
Ethybenzene	0.040
Lead	0.0835
Mercury	0.00063
Methylene chloride	0.0961
Molybdenum	0.034
Naphthalene	0.0125
Nickel	0.250
Phenol	0.454
Selenium	0.0264
Silver (daily max.)	0.0131
Tetrachloroethylene	0.1388
Toluene	0.2142

Parameter	Maximum Concentration (mg/l)
Total Phthalate	0.0645
Trichloroethlene	0.100
1,1,1-Trichloroethane	0.250
1,2 Transdichloroethylene	0.0075
Zinc	0.190

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single family residences, but may be required on multiple family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time;

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and

treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable city guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the city is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under § 18-2A02 to regulate the discharge of fat, oil and grease. (1978 Code, § 13-209, as amended by Ord. #1054, July 2006, and replaced by Ord. #1150, Dec. 2008)

18-210. Enforcement and abatement. Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 2A. Repeated or continuous violation of this ordinance is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(1) Cite the user to city or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (1978 Code, § 13-210, as replaced by Ord. #1150, Dec. 2008)

CHAPTER 2A

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION
18-2A01. Industrial pretreatment.
18-2A02. Discharge permits.
18-2A03. Industrial user additional requirements.
18-2A04. Reporting requirements.
18-2A05. Enforcement response plan.
18-2A06. Enforcement response guide table.
18-2A07. Fees and billing.
18-2A08. Validity.
18-2A09. Permit and surcharge fees.

18-2A01. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the General and Specific discharge regulations specified in § 18-109.

(2) Users wishing to discharge pollutants at higher concentrations than Table A Plant Protection Criteria of § 18-109, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-2A05

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as Local Limits, Table B or other applicable state and federal pretreatment rules which may take effectafter the passage of the ordinance comprising this chapter.

Table B - Local Limits

Pollutant	Monthly Average* Maximum Concentration (mg/l)	Daily Maximum Concentration (mg/l)
Arsenic	1.0752	1.6128
Benzene	0.5374	0.8061
Cadmium	0.0655	0.098
Carbon tetrachloride	10.69	16.03
Chloroform	9.43	14.15
Chromium III	42.42	63.64
Chromium VI	42.24	63.64
Copper	4.714	7.071
Cyanide	0.540	0.810
Ethybenzene	1.692	2.539
Lead	3.474	5.211
Mercury	0.0227	0.034
Methylene chloride	4.099	6.148
Molybdenum	1.2530	1.879
Napthalene	0.3214	0.4821
Nickel	10.5	15.75
Phenol	19.37	29,0
Selenium	0.920	1.380
Silver	0.348	0.522
Tetrachloroethylene	5.931	8.896
Toluene	9.141	13.711
Total Phthalate	2.55	3.825
Trichloroethlene	4.264	6.396

Pollutant	Monthly Average* Maximum Concentration (mg/l)	Daily Maximum Concentration (mg/l)
1,1,1-Trichoroethane	10.69	16.03
1,2 Transdichloroethylene	0.3	0.45
Zinc	2.357	3.535

*Based on twenty-four (24) hour flow proportional composite samples unless specified otherwise.

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge limits. Maximum concentrations may also be established for some users.

Table C-Surcharge and Maximum Limits

Parameter	Surcharge Limit	Maximum Concentration
Ammonia, nitrogen as	25 mg/L	35 mg/L
Oil and grease	50 mg/L	100 mg/L
BOD	300 mg/L	600 mg/L
Suspended Solids	300 mg/L	600 mg/L

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are detennined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency. (as added by Ord. #1150, Dec. 2008)

18-2A02. Discharge permits. (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-206 and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator, an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-209 and 18-2A01 discharge variations -- daily, monthly, seasonal and 30 minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the

city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws.

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary;

(G) Requirement to notify the WWF immediately if changes in the users processes affect the potential for a slug discharge.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any govermnental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to govermnental agencies for use; related to this chapter or the city's or user's NDPES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (as added by Ord. #1150, Dec. 2008)

18-2A03. Industrial user additional requirements. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current addition of 40 CFR 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where

wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority'and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the

facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or sufferirtg from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countenneasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment. This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence. Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (as added by Ord. #1150, Dec. 2008)

18-2A04. Reporting requirements. Users, whether pennitted or non-pennitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-2A05.

(1) Baseline monitoring report. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in paragraph b, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in paragraph (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the infonnation set forth below.

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(vi) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula,

(v) Measurement of pollutants.

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user

should measure the flows, and concentrations necessary to allow use of the combined wastestream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR 136 or other approved methods.

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-2A04(2) of this chapter.

(e) Signature add report certification. All baseline monitoring reports must be certified in accordance with § 18-2A04(14) and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-2A04(1)(d) of this ordinance:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

(b) No increment referred to above shall exceed nine (9) months.

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the

schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF,any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-2A04(1)(b)(vi) and (v) of this chapter. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compiiance reports must be signed and certified in accordance with subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system

which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-2A01.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-2A02 or modify an existing wastewater discharge permit under § 18-2A02 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic .nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine users status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame, If sampling performed by a user indicates a violation, the user must notify the

superintendent within twenty-four (24) hours of becoming aware of the violation, The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user,

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-2A04(5). The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-2A04(1), 18-2A04(3) and 18-2A04(4).

(b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued there under, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in sections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition,

grab samples may be required to show compliance with instantaneous limits

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken bythe user independent of such requirements, and documentation associated with best management practices established under § 18-2A02. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant

penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (as added by Ord. #1150, Dec. 2008)

18-2A05. Enforcement response plan. Under the authority of Tennessee Code Annotated, § 69-3-123, et. seq.

(1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the Mountain City Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-2A05(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (i) tluough (iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the city or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section

limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local

administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the city in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection, the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subsection (a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Johnson County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (b).

(viii) Any person to whom an emergency order is directed under § 18-2A05(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be

made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq. within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or py registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, innuediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125.

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the city resulting. from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the

local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-2A02(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations or a wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-209.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties--special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance: For the purpose of this guide, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS

fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under 205(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).

(9) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (c), (d) or (h) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the

measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-209 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health ofWWF personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation ofthe local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (as added by Ord. #1150, Dec. 2008)

18-2A06. Enforcement response guide table. (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this ordinance.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A to impose sanctions or penalties for the violation of this ordinance. (as added by Ord. #1150, Dec. 2008)

18-2A07. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

(a) Inspection fee and tapping fee;
(b) Fees for applications for discharge;
(c) Sewer use charges;
(d) Surcharge fees (see Table C);
(e) Waste hauler permit;
(f) Industrial wastewater discharge permit fees;
(g) Fees for industrial discharge monitoring; and
(h) Other fees as the city may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § § 18-2A02.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) Sewer user charges.[1] The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-2A07.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violation are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may access a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

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[1]Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

Category 1	No penalty
Category 2	$50.00-$500.00
Category 3	$500.00-$1,000.00
Category 4	$1,000.00-$5,000.00
Category 5	$5,000.00-$10,000.00

18-2A08. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city. (as added by Ord. #1150, Dec. 2008)

18-2A09. Permit and surcharge fees. (1) Permitted, significant industrial users shall be charged an annual maintenance fee of four thousand dollars ($4,000.00). This fee shall be added to the monthly wastewater bill at a rate of three hundred thirty-three dollars ($333.33) per month.

Permitted non- significant users shall be charged an annual maintenance fee of one hundred dollars ($100.00) per year due each January.

(2) Surcharges for high strength wastewater shall be set as follows and shall be assessed monthly based latest test data. Town generated test data used in disputes.

Parameter	Rate	Starting level
Biochemical Oxygen Demand	$0.35/lbs.	300 mg/L
Total Suspended Solids	$0.10/lbs.	300 mg/L
Ammonia, Nitrogen as	$1.03/lbs.	25 mg/L
Fat, oil, grease	$1.03/lbs.	50 mg/L

(as added by Ord. #1151, Dec. 2008)

CHAPTER 3

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION
18-301. Definitions.
18-302. Standards.
18-303. Construction, operation, and supervision.
18-304. Statement required.
18-305. Inspections required.
18-306. Right of entry for inspections.
18-307. Correction of existing violations.
18-308. Use of protective devices.
18-309. Unpotable water to be labeled.
18-310. Violations.

18-301. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the Town of Mountain City for general use and which supply is recognized as the public water supply by the Tennessee Department of Health and Environment.

(2) "Cross connection." Any physical arrangement whereby the public water supply is connected, directly or indirectly, with any other water supply system, whether sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections;

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain

[1]Municipal code reference
Plumbing and related codes: title 12.

sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (1978 Code, § 8-401)

18-302. Standards. The municipal public water supply is to comply with Tennessee Code Annotated, sections 68-13-701 through 68-13-719 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1978 Code, § 8-402)

18-303. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Health and Environment and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the superintendent of the water and sewer services of the Town of Mountain City or his representative. (1978 Code, § 8-403)

18-304. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the water and sewer services of the Town of Mountain City a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1978 Code, § 8-404)

18-305. Inspections required. It shall be the duty of the Mountain City Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the director of water and sewer services of the Town of Mountain City and as approved by the Tennessee Department of Health and Environment. (1978 Code, § 8-405)

18-306. Right of entry for inspections. The superintendent of water and sewer services of the town department or his authorized representative shall

have the right to enter, at any reasonable time, any property served by a connection to the Mountain City water supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (1978 Code, § 8-406)

18-307. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, by-passes, or interconnections in violation of the provisions of this chapter shall immediately, upon notice comply with the provisions of this chapter within the time designated to complete the work by the superintendent of Water and Sewer services of the Town of Mountain City. (1978 Code, § 8-407)

18-308. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed (a) 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, 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 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 superintendent of water and sewer services of the Town of Mountain City or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the superintendent prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective

device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the superintendent of water and sewer services of the Town of Mountain City. The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the superintendent of water and sewer services of the Town of Mountain City. (1978 Code, § 8-408)

18-309. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1978 Code, § 8-409)

18-310. Violations. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor. Where cross connections, interconnections, auxiliary intakes, or by-passes are found that constitute an extreme hazard of immediate concern of contaminating the public water system, corrective action shall be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is corrected immediately. If necessary, water service shall be discontinued (following legal notification) for failure to maintain back-flow prevention devices in proper working order. Likewise the removal, by-passing, or altering 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 Mountain City Public Water Supply. (1978 Code, § 8-410)

CHAPTER 4

STORMWATER MANAGEMENT ORDINANCE

SECTION

18-401. General.
18-402. Drainage plan required.
18-403. Plan prepared by licensed engineer.
18-404. Plan to contain measures to meet approved standards.
18-405. Plan normally developed at developer's expense.
18-406. Plans submitted in number satisfactory to planning commission.
18-407. Plan reviewed within sixty (60) days.
18-408. Security bond may be required.

18-401. General. The purpose of this ordinance is to diminish threats to public health and safety and degrading water quality caused by the run-off of excessive stormwaters, reduce flooding and the hydraulic overloading of the town's stormwater system, and reduce economic loss to individuals and the community at large. (as added by Ord. #914, Feb. 2000)

18-402. Drainage plan required. A drainage and sediment control plan shall be required for all subdivisions consisting of three (3) lots or more if any new streets or roads are to be constructed. A drainage and sediment control plan shall also be required for all commercial construction or renovation or any multi-family residential facility involving three (3) or more units. If necessary to protect the health and safety of the town, the planning commission may require a drainage and sediment control plan for any subdivision with less than three (3) lots or more units. If necessary to protect the health and safety of the town, the planning commission may require a drainage and sediment control plan for any subdivision with less than three (3) lots or development or renovation of less than three (3) multi-family residential units. The planning commission may also require a drainage and sediment control plan for any subdivision consisting of three (3) lots or more were no streets or roads are to be constructed, if necessary to protect the health and safety of the town. (as added by Ord. #914, Feb. 2000)

18-403. Plan prepared by licensed engineer. The drainage and sediment control plan shall be prepared and designed by an engineer or surveyor, licensed by the State of Tennessee, or a professional sedimentation and water control specialist. The plan shall include at least the following:

(1) Contour interval of at least five (5) feet.

(2) All existing drainage ways, including intermittent and wet weather.

(3) Existing land cover.

(4) Approximate limits of proposed clearing, grading and filling.
(5) Location, size and layout of proposed improvements.
(6) Proposed drainage network.
(7) Proposed drain tile or waterway sizes.
(8) Approximate flows of stormwater currently leaving the site.
(9) Proposed retention and description of structures, if applicable.
(10) Approximate flows leaving site after construction and incorporating water run-off mitigation measures.
(11) Proposed sediment unit measures. (as added by Ord. #914, Feb. 2000)

18-404. Plan to contain measures to meet approved standards. The drainage and sediment control plan shall contain measures that will ensure that the development will meet or exceed the following standards.

(1) The development fits within the topography and soils in a manner that allows stormwater and erosion control measures to be implemented in a manner satisfactory in the Mountain City Planning Commission.

(2) Provisions are implemented that accommodate any increase in stormwater runoff generated by the development in a manner in which the existing levels of run-off are not increased during and following construction. Hydraulic calculations will be based on a twenty-five (25) year storm.

(3) Whenever feasible, natural vegetation shall be returned and protected and temporary ground covers or mulching shall be used during development when necessary.

(4) Sediment and retention basins shall be used when necessary to prevent additional run-off and to prevent damage to adjacent property owners or the town's stormwater system. (as added by Ord. #914, Feb. 2000)

18-405. Plan normally developed at developer's expense. Unless approved by the governing body, the drainage and sediment control plan shall be developed and prescribed at the expense of the owner/developer. (as added by Ord. #914, Feb. 2000)

18-406. Plans submitted in number satisfactory to planning commission. The Mountain City Planning Commission will determine the number of copies of the stormwater and sediment control plan that must be presented by the owner/developer. (as added by Ord. #914, Feb. 2000)

18-407. Plan reviewed within sixty (60) days. The Mountain City Planning Commission will review drainage and sediment control plans as quickly as possible while still allowing for a thorough evaluation of the mitigation measures, however under no circumstances shall the planning commission take more than sixty (60) days to approve or disapprove the plan presented. (as added by Ord. #914, Feb. 2000)

18-408. Security Bond may be required. The Mountain City Planning Commission at its discretion may require a security bond in an amount equal to the estimated cost of the improvements. The bond will not be released until the approved measures in the drainage and sediment control plan have been completed. (as added by Ord. #914, Feb. 2000)

TITLE 19

ELECTRICITY AND GAS

CHAPTER
1. ELECTRICITY.

CHAPTER 1

ELECTRICITY

SECTION
19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the Town of Mountain City and its inhabitants under such franchise as the board of mayor and aldermen shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.[1] (1978 Code, § 13-301)

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[1]The agreements are of record in the office of the recorder.

TITLE 20

MISCELLANEOUS

(RESERVED FOR FUTURE USE)

ORDINANCE NO. 885

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION [AND REVISION] OF THE ORDINANCES OF THE TOWN OF MOUNTAIN CITY, TENNESSEE.

WHEREAS some of the ordinances of the Town of Mountain City are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Mountain City, 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 "Mountain City Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF MOUNTAIN CITY, TENNESSEE,* THAT:

Section 1. Ordinances codified. The ordinances of the town 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 "Mountain City 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 town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing or authorizing the

*The charter may provide for a different ordination clause; use whatever the charter prescribes.

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 town; 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 town.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars ($500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited

with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.[1]

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town 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.

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[1]State law reference

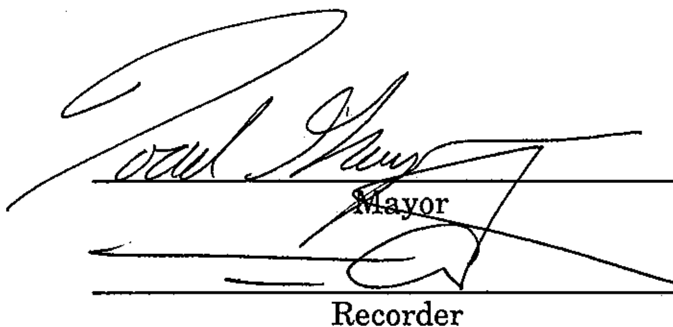
For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

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 APRIL 05, 1994.

Passed 2nd reading MAY 03, 1994.



Mayor

Recorder