

**THE  
MEDINA  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

August 2002

*Change 7*  
*June 6, 2022*

**CITY OF MEDINA, TENNESSEE**

**MAYOR**

Vance Coleman

**ALDERMEN**

Scottie Betts

Sam Gilley

Kevin Painter

Vanessa Presson

**RECORDER**

Kim Gilley

## PREFACE

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

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

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

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

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

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

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

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

The able assistance of Linda Dean, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Dianna Habib and Sandy Selvage, Administrative Services Assistants, is gratefully acknowledged.

Steve Lobertini  
Codification Consultant

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

Section 13. . . Ordinances and resolutions shall be in written form before being introduced. The enacting clause of ordinances shall be “Be it ordained by the Board of Mayor and Aldermen of the City of Medina:”. Every ordinance must be approved on two (2) readings and there shall be no more than one (1) reading on any one (1) day. An ordinance may receive first reading upon its introduction. Ordinances shall take effect upon final reading, adoption and being signed by the Mayor unless a different effective date is designated in the ordinance.

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**TITLE 1****GENERAL ADMINISTRATION<sup>1</sup>****CHAPTER**

1. MAYOR.
2. BOARD OF ALDERMEN.
3. CODE OF ETHICS.

**CHAPTER 1****MAYOR****SECTION**

- 1-101. Compensation.
- 1-102. Full-time status.
- 1-103. Effective date.

**1-101. Compensation.** The annual salary of the Mayor of Medina shall be fifty-five thousand dollars (\$55,000.00). (as added by Ord. #07-01, May 2007, and amended by Ord. #12-03, June 2012, Ord. #16-02, April 2016, and Ord. #20-06, June 2020 *Ch 7\_06-06-22*)

**1-102. Full-time status.** For the purposes of determining eligibility for the fringe benefit program offered to certain Medina city employees, the mayor shall be considered a full-time employee of the city. (as added by Ord. #07-01, May 2007)

**1-103. Effective date.** This chapter shall be in full force and effect from and after the administration of the oath of office to the person elected mayor in the municipal election of November, 2008 at the first regularly scheduled meeting of the board of mayor and aldermen following said election. (as added by Ord. #07-01, May 2007)

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<sup>1</sup>Charter references

Board of mayor and aldermen; election , term of office: § 6.

City recorder: § 16.

Mayor; duties, etc.: § 9.

Vice-mayor: § 10.

**CHAPTER 2****BOARD OF ALDERMEN****SECTION**

1-201. Compensation.

1-202. Effective date.

**1-201. Compensation.** The compensation paid to an alderman of the City of Medina shall be three hundred dollars (\$300.00) per month. (as added by Ord. #07-02, May 2007, and amended by Ord. #14-08, Nov. 2014)

**1-202. Effective date.** For the two (2) persons elected as aldermen in the November, 2014 municipal election, and their successors, this chapter shall be in full force and effect from and after the administration of the oath of office to said persons elected aldermen at the first regularly scheduled meeting of the board of mayor and aldermen following said election. For the two (2) persons elected as aldermen in the November, 2016 municipal election, and their successors, this chapter shall be in full force and effect from and after the administration of the oath of office to said persons elected aldermen at the first regularly scheduled meeting of the board of mayor and aldermen following said election. (as added by Ord. #07-02, May 2007, and amended by Ord. #14-08, Nov. 2014)

## CHAPTER 3

### CODE OF ETHICS<sup>1</sup>

#### SECTION

- 1-301. Applicability.
- 1-302. Definition of "personal interest."
- 1-303. Disclosure of personal interests by official with vote.
- 1-304. Disclosure of personal interests in nonvoting matters.
- 1-305. Acceptance of gratuities.
- 1-306. Use of information.
- 1-307. Use of municipal time, facilities, etc.
- 1-308. Use of position or authority.
- 1-309. Outside employment.
- 1-309. Ethics complaints.
- 1-310. Violations.

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<sup>1</sup>State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance - T.C.A. Title 2, Chapter I 0.

Conflict of interests - T.C.A. §§ 6-54-107, 108; 12-4-101 , 102.

Conflict of interests disclosure statements - T.C.A. § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials - T.C.A. §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office) - T.C.A. § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information - T.C.A. § 39-16-401 and the following sections.

Ouster law - T.C.A. § 8-47-101 and the following sections.

A brief synopsis of each of these laws appears in the appendix of the municipal code.

**1-301. Applicability.** This chapter is the code of ethics for personnel of the City of Medina. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City. The words "municipal" and "city council " or "City of Medina" include these separate entities. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 *Ch7\_06-06-22*)

**1-302. Definition of "personal interest."** (1) For purposes of §§ 1-103 and 1-104, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law takes precedence over the provisions of this chapter. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 *Ch7\_06-06-22*)

**1-303. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself<sup>1</sup> from voting on the measure. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 *Ch7\_06-06-22*)

**1-304. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the

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<sup>1</sup>Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 **Ch7\_06-06-22**)

**1-305. Acceptance of gratuities, etc.** An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the city:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 **Ch7\_06-06-22**)

**1-306. Use of information.** (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 **Ch7\_06-06-22**)

**1-307. Use of municipal time, facilities, etc.** (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the city council to be in the best interests of the city. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 **Ch7\_06-06-22**)

**1-308. Use of position or authority.** (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the city.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 **Ch7\_06-06-22**)

**1-309. Outside employment.** A full-time employee of the city may not accept any outside employment without written authorization from the mayor. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 *Ch7\_06-06-22*)

**1-310. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #07-06, June 2007, and replaced by Ord. #19-04, Oct. 2019 *Ch7\_06-06-22*)

**1-311. Violations.** An elected or appointed official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the city council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #19-04, Oct. 2019 *Ch7\_06-06-22*)

**TITLE 2**

**BOARDS AND COMMISSIONS, ETC.**

**[RESERVED FOR FUTURE USE]**

**TITLE 3****MUNICIPAL COURT<sup>1</sup>****CHAPTER**

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

**CHAPTER 1****CITY JUDGE****SECTION**

- 3-101. City judge.
- 3-102. Jurisdiction.

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

(2) Judge pro tem. During the absence of the city judge from his duties for any reason or at any time the office of the city judge is vacant, the board of mayor and aldermen may appoint a city judge pro tem to serve until the city judge returns to his duties or the office of city judge is no longer vacant. The city judge pro tem shall have all the qualifications required, and powers, of the city judge. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

**3-102. Jurisdiction.** The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

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<sup>1</sup>Charter references

City attorney: § 17.

City court, city judge: § 18.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of penalties and costs.
- 3-203. Disposition and report of penalties and costs.
- 3-204. Disturbance of any proceedings.
- 3-205. Failure to appear.

**3-201. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The city court clerk shall assist the judge in keeping the docket. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

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

In all cases heard and determined by him, the city judge shall impose court costs in the following amounts

Court costs	95.25
State litigation tax	13.75

One dollar (\$1.00) of the court costs in each case shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

**3-203. Disposition and report of penalties and costs.** All funds coming into the hands of the court clerk in the form of penalties, costs, and forfeitures shall be recorded by court clerk and deposited daily into city general fund designated as traffic fines. At the end of each month the court clerk shall submit to the board of mayor and aldermen a report accounting for the collection of all penalties and costs imposed by city court during the current month and to date for the current fiscal year. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

**3-204. Disturbance of any proceedings.** Disturbance of any proceedings is punishable by a fine of fifty dollars (\$50.00), or such lesser

amount as may be imposed in the judge's discretion. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

**3-205. Failure to appear.** Failure of an offender to appear for trial in the city court after the proper issuance of a citation, ordinance summons or subpoena shall constitute a separate violation and cause the court having jurisdiction thereof to issue a warrant against the offender or to issue a notice and citation requiring the offender to appear. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

## 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.**<sup>1</sup> The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

**3-303. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

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

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

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

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

"Person" as used in this section includes, but is not limited to, a natural person, corporation, business entity or the municipality. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

**3-403. Bond amounts, conditions, and forms.** (1) Appearance bond. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place.

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

(3) Form of bond. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county;

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

(a) Files the following oath of poverty:

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

(b) Files an accompanying affidavit of indigency.

(c) The judge finds the defendant is indigent. (as added by Ord. #14-01, March 2014, and replaced by Ord. #16-03, May 2016)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 16-18-307.

**TITLE 4****MUNICIPAL PERSONNEL****CHAPTER**

1. TRAVEL REIMBURSEMENT REGULATIONS.
2. [DELETED].
3. PERSONNEL RULES AND REGULATIONS.

**CHAPTER 1****TRAVEL REIMBURSEMENT REGULATIONS****SECTION**

- 4-101. Enforcement.
- 4-102. Travel policy.
- 4-103. Travel reimbursement rate schedule.
- 4-104. Violations.
- 4-105. Effective date.

**4-101. Enforcement.** The mayor shall be the official responsible for the administration and enforcement of these travel regulations. (Ord. #00-03, May 2000)

**4-102. Travel policy.** (1) For the purpose of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of the governing body and boards and committees appointed by the mayor or the governing body. These terms shall not include the spouse, children, other relatives, friends, or companions accompanying the traveler on city business, unless the person otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences and seminars; and other actual and necessary expenses related to official business as determined by the mayor not in conflict with this chapter.

(3) Authorized travelers can request billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses or be reimbursed for said expenses. Travel in excess of \$100 shall be approved in advance by the mayor. Said approval will require, among other factors considered, that there are sufficient appropriations in the current year budget to appropriately cover the cost of the travel. To qualify for reimbursement, travel expenses must also be directly related to the conduct of city business and

be actual, reasonable and necessary under the circumstances. Claims of more than \$5.00 must be supported by original receipts.

(4) Mileage expenses incurred in a personal automobile for travel between home and city hall within the city are not considered eligible expenses for reimbursement. For all other authorized travel involving a personal vehicle, the city will pay a mileage rate equal to the rate allowed by the Internal Revenue Service. Travelers shall not be reimbursed for automotive repair or breakdowns when using their personal vehicle. Fines for traffic or parking violations will not be reimbursed by the city. (Ord. #00-03, May 2000)

**4-103. Travel reimbursement rate schedules.** (1) The amount allocated for lodging shall not ordinarily exceed the maximum rates authorized by the state rate schedule. Reimbursement for lodging at an authorized conference or seminar, which is the official lodging of the event, may exceed this amount by the actual cost of the lodging.

(2) Receipts are required for all meals for which reimbursement is sought from the city. The city shall also pay for up to a fifteen percent gratuity, but in no event shall there be reimbursement for alcoholic beverages. Except for official group meals at conferences, or seminars, the maximum allowable meal reimbursement expense shall be \$22.00, including tax and gratuity. The mayor may authorize reimbursement to city officials or employees hosting others for a meal, excluding any relative, when official city business is the purpose of the meal. The mayor shall record with the receipt the person benefitting from the meal and the purpose.

- (3) The city shall, among other things, not reimburse for the following:
- (a) Personal telephone calls.
  - (b) Hotel/motel tips, excluding a one-time \$5.00 check-in fee, for which a receipt is not required.
  - (c) Laundry or valet service.
  - (d) Entertainment expenses such as golf green fees, movie or theater tickets, and similar activities, even if part of an official conference. (Ord. #00-03, May 2000)

**4-104. Violations.** Violation of the travel rules established by this chapter can result in disciplinary action for city employees and criminal prosecution of city officials and employees for fraud. (Ord. #00-03, May 2000)

**4-105. Effective date.** The mayor is authorized and directed to file this ordinance with the office of the comptroller and this ordinance shall only be in full force and effect after such filing has been completed. (Ord. #00-03, May 2000)

**CHAPTER 2**

(This chapter was deleted by Ord. #16-08, Oct. 2016)

## CHAPTER 3

### PERSONNEL RULES AND REGULATIONS

#### SECTION

4-301. Personnel policies and procedures.

**4-301. Personnel policies and procedures.** The City of Medina's personnel policies and procedures and all related appendices (including all amendments) are available for review in the office of the city recorder. (as added by Ord. #10-08, July 2010)

**TITLE 5****MUNICIPAL FINANCE AND TAXATION<sup>1</sup>****CHAPTER**

1. PURCHASING.
2. PRIVILEGE TAXES.

**CHAPTER 1****PURCHASING****SECTION**

- 5-101. Purchasing agent.
- 5-102. Advertising and competitive bidding.

**5-101. Purchasing agent.** The responsibilities of the purchasing agent are hereby conferred upon the office of mayor and the purchasing agent shall faithfully discharge the duties of said office to make purchases for the city. Purchases shall be made in accordance with the Municipal Purchasing Law of 1983 and amendments thereto, this chapter and purchasing procedures approved by resolution by the board of mayor and aldermen and filed with the city recorder. (Ord. #00-01, Jan. 2000)

**5-102. Advertising and competitive bidding.** Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of \$10,000 except for those purchases specifically exempted by the Municipal Purchasing Act of 1983, as amended, or any other applicable state law. (Ord. #00-01, Jan. 2000)

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<sup>1</sup>Charter references

Budge: § 27.

Expenditures: § 29.

Fiscal year: § 26.

Reimbursement for expenses for mayor and aldermen: § 8(b).

Taxes: §§ 33-39.

**CHAPTER 2****PRIVILEGE TAXES****SECTION**

5-201. Tax levied.

**5-201. Tax levied.** The taxes provided for in Chapter 387 of the Public Acts of 1971 known as the Business Tax Act, are hereby enacted, ordained, and levied on the businesses, business activities, vocations, or occupations carried on in the City of Medina, Medina, Tennessee, at the rates and in the manner prescribed by the said Act. (Ord. #79-2, March 1979)

**TITLE 6**

**LAW ENFORCEMENT**

**[RESERVED FOR FUTURE USE]**

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

1. OPEN BURNING.
2. FIRE CODE.

**CHAPTER 1****OPEN BURNING****SECTION**

- 7-101. Purpose.
- 7-102. Definitions.
- 7-103. Permit required, etc.
- 7-104. Permit application.
- 7-105. Authority to suspend permit/burning.
- 7-106. Compliance with chapter.
- 7-107. Exemptions.
- 7-108. Unauthorized burning prohibited.
- 7-109. Violation and penalty.

**7-101. Purpose.** The purpose of this chapter is to prevent fires that may be hazardous to life and property, eliminate potentially dangerous accumulations of combustible materials and to assist the city in eliminating unlawful, unnecessary and indiscriminate burning. (as added by Ord. #12-02, Feb. 2012)

**7-102. Definitions.** Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. The word "shall" is always mandatory and not merely directory.

(1) "Contractor" shall mean the primary contractor/builder or subcontractor for a particular construction site for which a building permit has been issued.

(2) "Developer" shall mean the individual or his/her designee that is developing a parcel of land for commercial or residential use.

(3) "Fire extinguishing equipment" shall mean an approved ten (10) pound ABC type fire extinguisher, a garden type hose connected to a reliable water supply, or any other equipment approved in writing in advance by the fire chief.

(4) "Open burning" shall mean the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted

directly into the ambient air without passing through an adequate stack, duct, or chimney. (as added by Ord. #12-02, Feb. 2012)

**7-103. Permit required, etc.** (1) No open burning shall be permitted within the City of Medina without a permit, except as provided in § 7-107 of this chapter.

(2) Open burning may be conducted subject to the following limitations with a valid burning permit, issued by the City of Medina at no charge:

(a) To clear land of brush/wood grown on that land where the land is being maintained for the following purposes:

- (i) Establish private residences, consisting of one (1) or two (2) dwelling units;
- (ii) Establish church congregational properties;
- (iii) New site development projects;
- (iv) Agriculture development.

NOTE: Before clearing brush/wood for development the responsible party must notify the fire department to determine the proper site and method for burning.

(3) All such permits shall be available for inspection throughout the period of time the permit is issued and the open burning is in progress.

NOTE: Materials may not be burned in piles exceeding one hundred eighty (180) cubic feet, except as designated on new site development projects. (as added by Ord. #12-02, Feb. 2012)

**7-104. Permit application.** To obtain a permit required by this chapter, the applicant shall obtain a burn permit from the fire department at least twenty-four (24) hours before the fire, which shall include:

- (1) The type of materials to be burned;
- (2) The location of the fire;
- (3) The individual(s) designated as being responsible for controlling the fire;

(4) A signed statement by the applicant stating that he or she will follow all outdoor burning regulations contained in this code, that no outdoor burning shall be left unattended, and that a protection against fire spread will be provided in a manner approved by the fire chief or his designee. (as added by Ord. #12-02, Feb. 2012)

**7-105. Authority to suspend permit/burning.** (1) Regardless of any established permit period, the fire chief or his designee shall have the authority to forbid, restrict or suspend any and all burning or cancel any permit upon determining burning to cause a nuisance, weather or other conditions are unfavorable, or hazardous for outdoor fires.

(2) The fire chief or his designee in granting or denying such permission, shall take into consideration the atmospheric conditions, the site of

the proposed burning in relation to proximate structures, the availability of fire suppression equipment at the site, the attendance of a competent person during the burning, and any other local conditions that might make such a fire hazardous. (as added by Ord. #12-02, Feb. 2012)

**7-106. Compliance with chapter.** (1) The granting of an open burning permit shall in no way relieve the person responsible for such burning from the consequences or the damages, injuries, or claims resulting from such burning, or of the responsibility of obtaining any other permit from any other agency.

(2) A garden hose and water supply or other fire extinguishing equipment must be on hand and a competent person in constant attendance until all fire has been extinguished.

(3) Shall comply with the rules of Tennessee Department of Environment and Conservation Bureau of Environment Division of Air Pollution Control Chapter 1200-3-4 Open Burning.

(4) Developer and/or contractors. Open burning cannot be located closer than fifty feet (50') to any structure. Burning may not be located closer than one hundred feet (100') to any wooded land.

(5) A bon fire may be allowed, with written approval by the fire chief, provided the size does not exceed five feet (5') in height and six feet (6') in base. The bon fire must be supervised by a person twenty-one (21) years or older with approved fire extinguishing equipment. The City of Medina must be notified at least three (3) days in advance during regular business hours prior to the ignition of a bon fire. If an organization wants to build a bon fire larger than the specifications stated above, a fire apparatus with city firefighters must be arranged to be on site during the ceremony.

(6) Piles exceeding one hundred eighty (180) cubic feet shall meet additional special requirements as determined by the fire chief taking into consideration the atmospheric conditions, the site of the proposed burning in relation to proximate structures, the availability of fire suppression equipment at the site, the attendance of a competent person during the burning, and any other local conditions that might make such a fire hazardous. (as added by Ord. #12-02, Feb. 2012)

**7-107. Exemptions.** Burning may be conducted under the following conditions without a burn permit provided that no complete burn ban is issued by the fire department. The responsible party conducting the burning must constantly attend the burning material, and must have an expectable level of fire extinguishing equipment present and knowledgeable in the use of such:

(1) Fire used for cooking of food or for ceremonial or recreational purposes, including barbecues, campfires, and outdoor fireplaces or fire pits.

(2) Fires set for the training and instruction of public or private firefighting personnel.

(3) Fires set by or at the direction of responsible fire control agencies for the prevention, elimination, or reduction of a fire hazard.

(4) Heating on construction project sites with a valid building permit may be conducted between October 1 and April 15 provided the burning is in a suitable metal fifty-five (55) gallon container with an ash screen in place on top of the container as a spark arrester.

(a) Only untreated wood may be used. This is not to be construed to allow burning of painted or chemically treated wood or garbage, for comfort heating.

(b) Fire extinguishing equipment must be located within five feet (5') of the container.

(c) Fires shall be extinguished when no worker is in attendance.

(d) Fire containers shall be located a minimum of twenty-five feet (25') from any structure or tree. (as added by Ord. #12-02, Feb. 2012)

**7-108. Unauthorized burning prohibited.** It shall be unlawful to burn any of the following:

- (1) Tires and rubber products;
- (2) Vinyl siding and shingles;
- (3) Asphalt shingles and other asphalt roofing materials and demolition debris;
- (4) Houses and mobile homes;
- (5) Plywood, oriented strand board and treated wood, including railroad ties;
- (6) Asbestos-containing materials;
- (7) Aerosol cans and food cans;
- (8) Copper wire and electrical wires;
- (9) Plastics and other synthetic materials;
- (10) Paper products, cardboard and newspapers;
- (11) Household trash;
- (12) Branches and trees not grown on site. (as added by Ord. #12-02, Feb. 2012)

**7-109. Violation and penalty.** The violation of any provision of this chapter is punishable under the general penalty provision of this municipal code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #12-02, Feb. 2012)

## CHAPTER 2

### FIRE CODE

#### SECTION

- 7-201. Fire code adopted.
- 7-202. Modifications.
- 7-203. Available in city recorder's office.
- 7-204. Violation and penalty.

**7-201. Fire code adopted.** Pursuant to the authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code,<sup>1</sup> 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as part of Medina City Code and is hereinafter referred to as the International Fire Code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2014, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 *Ch7\_06-06-22*)

**7-202. Modifications.** (1) "The City of Medina" shall be inserted into all blanks referencing the name of the jurisdiction or municipality.

(2) The blanks referring to the date of issuance shall be the effective date of this ordinance.

(3) Section 109.3. The blanks referring to violations shall be inserted with "misdemeanor" and "fifty dollars (\$50.00)" as appropriate; and all references to imprisonment shall be deleted.

(4) Section 903.2.8. The following text shall be inserted: "Exception: One and two family dwelling not more than three (3) stories in height." (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2014, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 *Ch7\_06-06-22*)

**7-203. Available in the city recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of this code shall be placed on file in the office of the Medina City Recorder and shall be kept there for the use and inspection of the public. A copy of the ordinance comprising this chapter shall be kept with the aforementioned code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2014)

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

**7-204. Violation and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the code referenced in § 7-201 of this chapter as herein adopted by reference and modified. The violation of provisions of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2014)

**TITLE 8****ALCOHOLIC BEVERAGES<sup>1</sup>****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Residency requirement.
- 8-104. Application fees to be paid by applicant; penalty.
- 8-105. Applicant to agree to comply with laws.
- 8-106. Applicant to appear before board of mayor and aldermen; duty to give information.
- 8-107. Action on application.
- 8-108. Bonds of licensees.
- 8-109. Applicants for certificate who have criminal record.
- 8-110. Only one establishment to be operated by retailer.
- 8-111. Restrictions on license holders and their employees.
- 8-112. Where establishments may be located.
- 8-113. Retail stores to be on ground floor entrances.
- 8-114. Retailers not to solicit orders.
- 8-115. Wholesale business prohibited.
- 8-116. Limitation on the number of retailers.
- 8-117. Sales for consumption on premises.
- 8-118. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-119. Regulation of retail sales.
- 8-120. Loitering prohibited.
- 8-121. Sales to persons intoxicated, etc.
- 8-122. Persons under the age of twenty-one prohibited unless accompanied by parent or legal guardian.
- 8-123. Transfer of licenses.
- 8-124. Inspection fee.

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

- 8-125. Provision of list of wholesalers.
- 8-126. Failure of a licensee to pay inspection fees, etc.
- 8-127. Effects of violation of liquor laws, rules or regulations.
- 8-128. Revocation or refusal of retailer to permit examination of books, records, etc.
- 8-129. New certificate after revocation.
- 8-130. Violations.

**8-101. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57, chapter 3. (as added by Ord. #14-02, April 2014, and replaced by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-102. Application for certificate.**<sup>1</sup> Before any certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any city aldermen,<sup>2</sup> a non-refundable application fee of two hundred fifty dollars (\$250.00) to City of Medina, along with an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

- (1) Name, age, and address of the applicant;
- (2) Time of residence in the city;
- (3) Occupation or business and length of time engaged in such occupation or business;
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction;
- (5) If employed, the name and address of employer;
- (6) If in business, the kind of business and location thereof;
- (7) The location of the proposed store for the sale of alcoholic beverages;
- (8) The name and address of the owner of the store;
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business, or employer. If the applicant is a corporation or company, the name, age, and address of the stockholders or

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<sup>1</sup>State law reference:

Tennessee Code Annotated, § 57-3-208.

<sup>2</sup>State law reference:

Tennessee Code Annotated, § 57-3-208 requires the certificate to be signed by the mayor or a majority of the governing body.

member and their degrees of ownership of stock or membership interest in the corporation or company; and

(10) Certain financial information pertinent to the applicant, partnership, corporation and partners or stockholders.

(11) Certification that applicant has read and understands all the state statues dealing with the licensing and operation of a retail liquor establishment and has read the city ordinance and can certify at the time of making application the applicant can comply with the regulations set forth in said ordinance.

The information in the application shall be verified by the oath of the applicant if the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-103. Residency requirement.** The application for a certificate of compliance shall been a citizen of the United States and a resident of the State of Tennessee. If the applicant is a partnership or corporation, each of the partners or stockholders must be a citizen of the United States and a resident of Tennessee. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-104. Application fees to be paid by applicant; penalty.** The application fee shall be payable by the person making application and no other person shall pay for any such fees. In addition to all other penalties provided for violations of this chapter, a violation of this section shall authorize and require the denial and/or revocation of any certificate issued pursuant to such application and forfeiture of the fee which was paid by another, and also the revocation of the certificate, if any, of the person so paying the application fee of another. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-105. Applicant to agree to comply with laws.** Prior to making application with the City of Medina, the applicant shall investigate and be satisfied that the applicant is in compliance with state and federal law, rules and regulations governing this issuance by those agencies of liquor licenses. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-106. Applicant to appear before Board of Mayor and Aldermen; duty to give information.** An applicant for a certificate of compliance may be

required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-107. Action on application.** Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed. The board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-108. Bonds of licensees.** A licensee shall execute, with a surety company duly authorized and qualified to do business in the State of Tennessee, a bond to the City of Medina in the amount of two thousand five hundred dollars (\$2,500.00) which shall be conditioned that the principal thereof shall pay any fine, tax, or fee which may be owing or assessed against the principal. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-109. Applicants for certificate who have criminal record.** No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation or company, any stockholder or member), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage, or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-110. Limitation on number of establishment to be operated by retailer.** A holder of a retail license may only have an interest, directly or indirectly, in two (2) retail package stores. For the purposes of this restriction, any amount of interest must be taken into account. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest, or otherwise. This provision does not prevent a retailer from also holding a beer permit.

No retail licensee shall hold more than fifty percent (50%) of the licenses issued by the City of Medina. In addition, any retail licensee shall comply with

any Tennessee Statute with respect to the issuance of retail licenses and regulations of the Tennessee Alcohol Beverage Commission. (as added by Ord. #18-09, March 2019 **Ch7\_06-06-22**, and replaced by Ord. 19-06, Nov. 2019 **Ch7\_06-07-22**)

**8-111. Restrictions on license holders and their employees.** (1) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States, and a resident of the State of Tennessee.

(2) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of twenty-one (21) years, and it shall be unlawful for any retailer to employ any person under twenty-one (21) years of age for the physical storage, sale or distribution of alcoholic beverages, or to permit any such person under said age in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(3) Misrepresentation of a material fact or concealment of a material fact required to be shown in the application for a license, shall be a violation of this chapter. (as added by Ord. #18-09, March 2019 **Ch7\_06-06-22**, and replaced by Ord. 19-06, Nov. 2019 **Ch7\_06-07-22**)

**8-112. Where establishments may be located.** No retail package liquor store shall be allowed within two hundred feet (200') of any school, church, playground or park. The distance described herein shall be measured in a straight line from building to building. (as added by Ord. #18-09, March 2019 **Ch7\_06-06-22**, and replaced by Ord. 19-06, Nov. 2019 **Ch7\_06-07-22**)

**8-113. Retail stores to be on ground floor entrances.** No retail store shall be located anywhere on premises in the town except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

In addition, all liquor stores shall be a permanent type of construction. No liquor stores shall be located in a manufactured or other moveable or prefabricated type building. All liquor stores shall have night lights surrounding the premises and shall be equipped with a functioning burglar alarm system on the inside of the premises. The minimum square footage of the interior of the liquor store shall be nine hundred (900) square feet. Any signage on the store and any windows that are part of the store must comply the City of Medina's sign and window regulations, which are part of the City of Medina's Zoning Ordinance. All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, adopted by the city, unless specifically provided otherwise. (as added by Ord. #18-09, March 2019 **Ch7\_06-06-22**, and replaced by Ord. 19-06, Nov. 2019 **Ch7\_06-07-22**)

**8-114. Retailers not to solicit orders.** No holder of a license issued shall employ any canvasser or solicitor for the purposes of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-115. Wholesale business prohibited.** No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits, except to a retailer as described herein. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-116. Limitation on the number of retailers.** There is no limitation on the number of licenses for the sale of alcoholic beverages under this chapter. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-117. Sales for consumption on premises.** No alcoholic beverages shall be sold for consumption, or shall be conswned, on the premises of the retail seller, except as provided by Tennessee Code Annotated, title 57, chapter 3. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-118. Amusement devices and seating facilities prohibited in retail establishments.** No pinball machines, slot machines, or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. One (1) radio and/or one ( 1) television shall be permitted in the establishment. However, the radio or television cannot be broadcast outside of the building or into the parking lot. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-119. Regulation of retail sales.** (1) No retailer shall sell alcoholic beverages to a person known to be a minor.

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

(3) No retailer as herein defined shall own, store, or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of said state. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-120. Loitering prohibited.** No retailer shall allow anyone to loiter about their premises during hours in which they are open to the public. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-121. Sales to persons intoxicated, etc.** No retailer shall sell any alcoholic beverages to any person who is under the influence of any alcohol and/or drugs, nor to any person who is accompanied by a person who is under the influence. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-122. Persons under the age of twenty-one prohibited unless accompanied by parent or legal guardian.** No person under the age of twenty-one (21) is allowed on the premises of a retail liquor store including the building and parking lot unless they are accompanied by a parent or legal guardian. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-123. Transfer of licenses.** No sale, lease, assignment, transfer, or gift of any interest of any nature, either financial or otherwise, in any store or license of any licensee shall be made without first obtaining the written approval of the board and the issuance of a certificate to a proposed new owner, stockholder, member, partner, director, or otherwise. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-124. Inspection fee.** (1) Amount. For the purposes of providing a means of regulating, inspecting, and supervising the liquor business in the city, there is levied and imposed upon each retailer an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on of the wholesale price of alcoholic beverages supplied by any wholesaler to such retailer. The fee shall be measured by the wholesaler's,price of the alcoholic beverages sold by all such wholesalers and paid by all such retailers and shall in the maximum amount allowed by Tennessee Code Annotated, § 57-3-50 1 on of such wholesale price.

(2) Collection by wholesaler from retailer. The inspection fee shall be collected by the wholesaler from the retailer at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(3) Fees to be held until paid to city. Every such wholesaler shall hold the fees imposed under the authority of this section until paid to the city as hereinafter provided.

(4) Monthly report and payment. Each wholesaler making sales to retailers located within the city shall furnish to the city a report monthly and which report shall contain the following:

- (a) The name and address of the retailer;
- (b) The gross wholesale price of the alcoholic beverages sold to such retailer; and
- (c) The amount of tax due under this section.

(5) Due date of wholesaler's reports and payment. The monthly report shall be furnished to the city recorder not later than the twentieth (20th) day of the month following which the sales were made and the inspection fees collected by the wholesaler from the retailers shall be paid to the city at the time the monthly report is made.

(6) Failure to report and remit fees. Each wholesaler who fails to collect and/or remit the inspection fees imposed hereunder shall be liable for a penalty of ten percent (10%) of the fees due the city.

(7) Audit of wholesalers' records. The city may audit the records of all wholesalers subject to the provisions of this section in order to determine the accuracy of said monthly reports.

(8) Disposition of fees. The city recorder shall turn over to the city any and all monies collected pursuant to this section and the recorder shall deposit said monies in the general fund of the city. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-125. Provision of list of wholesalers.** Each licensee shall report of its list of wholesalers that it makes purchases from upon the issuance of the certificate and on a quarterly basis thereafter to the city recorder. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-126. Failure of a licensee to pay inspection fees, etc.** Whenever any licensee fails to account for or pay over to the city any tax, fine, or inspection fee, fails to provide a list of its wholesalers, or defaults in any of the conditions of his bond, the city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such defaults in payments and for the revocation of any certificate issued to such person under this chapter. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-127. Effects of violation of liquor laws, rules or regulations.**

(1) In case of any conviction occurring after a certificate has been issued hereunder, the certificate shall immediately be revoked, if such convict shall be an individual, and, if not, the partnership, corporation, association, or LLC, with which he is connected shall immediately discharge him, and failure to do so shall result in the immediate revocation of its certificate. Violation of any liquor laws, rules or regulations, shall also result in the immediate revocation of its certificate.

(2) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who within ten (10) years prior to the date of his employment shall have been convicted of any such violations as provided in subsection (1) above and in case an employee should be so convicted, he shall be immediately discharged. Failure of a retailer to immediately discharge such employee shall be cause for revocation of the certificate of such retailer. Violation of any liquor laws, rules, or regulations, shall also result in the immediate revocation of its certificate.

(3) The retailer and its employees are obligated to contact law enforcement in a reasonable timely manner if any criminal acts are committed upon its premises. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-128. Revocation or refusal of retailer to permit examination of books, records, etc.** The city is authorized to examine the books, papers, and records of any retailer or applicant for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises shall constitute sufficient reason for the revocation of any certificate issued to such retailer or the refusal to issue a certificate of any applicant. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-129. New certificate after revocation.** Where a certificate is revoked, no new certificate shall be issued on the same premises of such retailer before the expiration of one (1) year from the date said revocation becomes final and effective. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

**8-130. Violations.** Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. However, nothing herein shall be construed to prevent the city from exercising any criminal or civil remedies that it may have with respect to violations of this ordinance. Any person who shall violate any provision of this chapter shall be punishable by a fine of fifty dollars (\$50.00) for each such violation and in the case of a retailer shall, in the discretion of the board, be the cause for revocation of the certificate issued to such retailer. (as added by Ord. #18-09, March 2019 *Ch7\_06-06-22*, and replaced by Ord. 19-06, Nov. 2019 *Ch7\_06-07-22*)

## CHAPTER 2

### BEER

#### SECTION

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**8-201. "Beer" defined.** The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101. (Ord. #95-02, June 1995, as replaced by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #17-02, March 2017, Ord. #19-01, May 2019 **Ch7\_06-06-22**, and Ord. #20-07, July 2020 **Ch7\_06-06-22**)

**8-202. Beer board established.** There is hereby established a beer board to be composed of all the members of the City of Medina Board of Mayor and Aldermen. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. The beer board shall make all future rules and regulations to provide for the issuance of licenses for

the sale, storage, distribution for sale, and manufacture of beer within the corporate limits. (Ord. #94-01, Oct. 1994, as replaced by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #17-02, March 2017, Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-203. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the Medina City Hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting of the beer board may be called by its chairman provided he/she gives a reasonable notice thereof. The board may adjourn a meeting at any time to another time and place. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #17-02, March 2017, Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-204. Record of proceedings to be kept.** The city recorder shall make a separate record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following:

- (1) The date and time of each meeting;
- (2) The names of the board members present and absent;
- (3) The names of the members introducing and seconding motions and resolutions, etc., before the board;
- (4) A copy of each such motion or resolution presented;
- (5) The vote of each member thereon; and
- (6) The provision of each beer permit issued by the board.

The recorder shall also maintain an up to date list of the names and addresses of all beer permit holders. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-205. Requirement for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present, but not voting, shall be deemed to have cast a "nay" vote. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-206. Powers and duties of the beer board.** The board shall have the power, and it is hereby directed, to regulate the selling, distributing, or manufacturing of beer and the storing and distributing for sale within the City of Medina in accordance with the provisions of this chapter. (as added by

Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 **Ch7\_06-06-22**, and Ord. #20-07, July 2020 **Ch7\_06-06-22**)

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person, group of persons, business, or corporation, to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of twenty dollars (\$20.00). Said fee shall be payable to the City of Medina. Each applicant must be a person of good moral character and certify that she/he has read and is familiar with the provisions of this chapter. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 **Ch7\_06-06-22**, and Ord. #20-07, July 2020 **Ch7\_06-06-22**)

**8-208. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, or manufacturing. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his/her permit. It shall likewise be unlawful for any permit holder to fail to comply with any and all express restrictions or conditions which may be written into his/her permit by the beer board. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 **Ch7\_06-06-22**, and Ord. #20-07, July 2020 **Ch7\_06-06-22**)

**8-209. Limitations upon the issuance of beer permits.** No permit shall be issued by the beer board:

- (1) In violation of any provision of state law.
- (2) In violation of the Medina Zoning Ordinance.
- (3) To any alien determined to be in the United States illegally.
- (4) At any location within two hundred feet (200') of any operating elementary, middle, or high school or operating church, as measured by the shortest straight line which can be drawn between the structures.

(a) This provision does not apply to a location that is located in a B-2 (Central Business) District.

(b) Operating elementary, middle or high school is defined as an institution, including kindergarten, where regular classes are conducted under the supervision of a teacher or instructor where specialized subjects are taught to persons under eighteen (18) years of age on a daily basis.

(c) Operating church is defined as a church that meets on at least a weekly basis and whose property is exempt from taxation by the property assessor.

(d) The subsequent location of an operating school or operating church nearer to the location than the prescribed distances shall not, in and of itself, cause the permit to be revoked as long as the location remains at the same location.

(5) At any location within two hundred feet (200') of playground or park, as measured by the shortest straight line which can be drawn between the structure for a playground or entrance for a park.

(a) This provision does not apply to a location that is located in a B-2 (Central Business) District.

(b) Playground and park means a place or property either owned or maintained by the city or by a governmental entity where persons regularly gather for recreational purposes or as spectators.

(c) The subsequent location of an playground or park nearer to the location than the prescribed distances shall not, in and of itself, cause the permit to be revoked as long as the location remains at the same location.

(6) For any temporary business or activity.

(7) The provision of this section may be waived if the applicant can show reasonable cause for the waiver to be granted. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 **Ch7\_06-06-22**, and Ord. #20-07, July 2020 **Ch7\_06-06-22**)

**8-210. On-premises consumption permits.** An on-premises consumption permit shall be issued to those businesses which have been approved by the beer board to sell beer to be consumed on the premises of such business. To qualify for an on-premises consumption permit, the establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (1) Be primarily a restaurant or an eating place; and
- (2) Have operable cleanly maintained commercial cooking equipment on the premises; and
- (3) Be able to seat a minimum of forty ( 40) people, including children, in booths and at tables, in addition to any other seating it may have; and
- (4) Have all seating in the interior of the building under a permanent roof; and
- (5) Have been in continual operation for a period of at least six (6) months; and
- (6) Be kept and maintained in a safe, clean, and sanitary condition as required for a rating of class "B" or better as established by the Tennessee Department of Conservation, Division of Hotels, and Restaurant Inspection; and

(7) The monthly beer sales of any establishment which holds an on-premises consumption license shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any such establishment which for two (2) or more months in any consecutive twelve (12) month period has beer sales exceeding twenty-five percent (25%) of its gross sales, shall have its beer permit revoked. All holders of on-premise beer consumption licenses shall, as a condition of issuance of said permit, make available to the City of Medina a copy of the business's monthly financial records within thirty (30) calendar days of such demand by the City of Medina. Said monthly financial records shall, as a minimum, include the following information:

- (a) The name and address of the business;
- (b) The name(s) of the principal owners of the business;
- (c) The month and year of the financial data;
- (d) The gross sales of the business for the month, defined as the revenue derived from the sale of all consumables at the permitted location;
- (e) The gross revenue derived from all beer sales during the month;
- (f) A certified statement, signed by the business's accountant or bookkeeper attesting to the accuracy of the financial information provided to the city. The City of Medina shall have the authority to demand such financial information or any calendar month within a thirty-six (36) month period of the date of such demand. The failure to submit such financial information to the Medina City Recorder within ten (10) calendar days of such demand shall be grounds for suspension or revocation of the permit holder's on-premise beer license; and
- (g) Each premise is required to have a telephone on the premises to the end that both customers and the owners and managers shall have quick access to the police. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-211. Off-premise permit.** An off-premise beer permit shall be issued to those businesses which have been approved to sell beer for consumption off the premises of the said business. To qualify for an off-premise permit, an establishment must, in addition to meeting the other regulations and restrictions of this chapter:

- (1) Be a grocery store or a convenience type market; and
- (2) In either case, be primarily engaged in the sale of grocery, personal, and home care and cleaning articles, but also may sell gasoline; and
- (3) All such retail establishments shall have a telephone on the premises to the end that both customers and the owners and managers shall have quick access to the police. (as added by Ord. #06-03, May 2006,

renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 ***Ch7\_06-06-22***, and Ord. #20-07, July 2020 ***Ch7\_06-06-22***)

**8-212. Limitations on number of permits.** The beer board shall limit the number of beer permits issued in the City of Medina as follows:

- (1) On-premises permits: unlimited.
- (2) Off-premises permits: unlimited.

No single business, operating at a single location, shall qualify to hold both an on-premise and off-premise permit. There shall be no limit on the number of permits issued for the storage, distribution, or manufacture of beer. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 ***Ch7\_06-06-22***, and Ord. #20-07, July 2020 ***Ch7\_06-06-22***)

**8-213. Application process.** All applications for a beer license shall be on forms developed and provided by the Medina City Recorder for such purpose. Each applicant shall pay, at the time of filing, a fee of twenty dollars (\$20.00). Following submission of a properly completed application form, the beer board, or its designee, shall have thirty (30) days in which to investigate the applicant and his/her premises and to take action on the application. After the permit has been approved, the applicant shall be assessed a two hundred fifty dollar (\$250.00) non-refundable, non-transferrable permit fee, applicable business license charges, plus an annual privilege tax of one hundred (\$100.00) for the calendar year or any portion thereof, payable by January 1 of each year. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 ***Ch7\_06-06-22***, and Ord. #20-07, July 2020 ***Ch7\_06-06-22***)

**8-214. Investigation of applicant, agent, and/or employees.** Applicants, as well as their agents and employees, for retail permits under this section are subject to be investigated by municipal, county and state. The applicant must submit such information and records as the beer board may require as to the applicant, agents, and employees. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 ***Ch7\_06-06-22***, and Ord. #20-07, July 2020 ***Ch7\_06-06-22***)

**8-215. Death of a permit holder.** In the event of the death of a beer permit holder, the establishment shall not be allowed to sell beer, but his successors shall be given thirty (30) days to make formal application and have first option on the available license. (as added by Ord. #06-03, May 2006, replaced by Ord. #09-04, May 2009, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 ***Ch7\_06-06-22***, and Ord. #20-07, July 2020 ***Ch7\_06-06-22***)

**8-216. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with the operation of schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, morals, or welfare. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-217. Issuance of permits to person convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the illegal possession, sale, manufacture or transportation of intoxicating liquor, or any crime involving moral turpitude, within the ten (10) year period preceding the date of application for a beer permit. (as added by Ord. #06-03, May 2006, renumbered and replaced by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-218. Status of license pending charges.** Any person charged with a criminal offense involving the sale of alcohol or drugs or the violation of state law with reference to alcohol or drugs or any crime involving moral turpitude may have his or her license suspended pending the outcome of those charges. (as added by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-219. Prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the illegal possession, sale, manufacture, or transportation of intoxicating liquor, or a crime involving moral turpitude within ten (10) years of such person's employment with the permittee. The provision of this section may be waived if the applicant/permit holder can show reasonable cause for the waiver to be granted.

(2) To employ anyone under the age of eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer.

(3) For any holder of an on-premise permit to make or allow any sale of beer on Sundays, except between the hours of 12:00 noon and 10:00 P.M. For any holder of an off-premise permit to make or allow any sale of beer on Sundays, except between the hours of 12:00 noon and 10:00 P.M.

(4) For any holder of an on-premise permit to make or allow any sale of beer between the hours of 11:00 P.M. and 11:00 A.M. during any night of the week; or for any holder of an off-premise permit to make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M.

(5) Allow any loud, unusual, or obnoxious noises to emanate from the permittee's premises.

- (6) Make or allow any sale of beer to any person under twenty-one (21) years of age.
- (7) Make or allow any sale of beer to any intoxicated person.
- (8) Allow intoxicated or disruptive persons to loiter about the permittee's premises.
- (9) Serve, sell, or allow the consumption on the permittee's premises of any alcoholic beverage with an alcoholic content greater than that defined by Tennessee Code Annotated, § 57-5-101.
- (10) Allow gambling on the permittee's premises.
- (11) Allow pool or billiard playing, dancing, or the provision of services by a dee-jay in the same room where beer is sold and/or consumed.
- (12) For the holder of an on-premise permit to fail to provide and maintain separate sanitary toilet facilities for men and women.
- (13) Allow the use of a drive up window from which beer is sold or delivered to patrons. (as added by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-220. Suspension and revocation of beer permits--civil penalty.**

(1) All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act; any provisions of this chapter; or any false representations made in the application. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board, and the beer board is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked.

Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated the provisions of the state beer act or any of the provisions of this chapter, the board is authorized to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the police department of the City of Medina. The notice shall be served upon the permittee at least five (5) days before the date of the hearing.

At the hearing, the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend, or revoke said permit. The action of the board in all such hearings shall be final, subject to review by the courts as provided in the state beer act.

When a permit is revoked, no new permit shall be issued hereunder for the sale of beer to the same person until the expiration of one (1) year from the date said revocation becomes final.

(2) The beer board, pursuant to Tennessee Code Annotated, § 57-5-108(a), shall not revoke or suspend the permit of a responsible vendor for a clerk's illegal sale of beer to a minor, if the permit or license holder and the clerk making the sale have complied with the requirements of § 57-5-606 as a responsible vendor, but may impose on the responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

The prohibition of § 57-5-108(a) concerning the revocation or suspension of the vendor's permit shall not apply to any vendor who is not a responsible vendor under § 57-5-606, or to a participating vendor, if the vendor or clerk making a sale to a minor fails to comply with the requirements of § 57-5-606. With respect to such permit or license holder the board may, at the time it imposes a revocation or suspension, offer the permit or license holder the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. (as added by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-221. On-premise signage.** No sign, advertisement or display that advertises beer may be erected or maintained on the exterior of any property, including in windows visible to the exterior, where an on-premise beer permit has been issued. (as added by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-222. Permit to be displayed.** The permits required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (as added by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-223. Minor, fraudulent evidence of age, etc., misdemeanor.** It shall be unlawful for any minor to purchase, attempt to purchase or possess any such beverages covered under this chapter or for anyone to purchase such beverages for a minor. It shall be unlawful for any minor present to offer to any permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchases or attempting to purchase such beverages. Any minor who acts in violation of any one (1) or more provisions of this section shall be taken before the juvenile judge for appropriate disposition. (as added by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 *Ch7\_06-06-22*, and Ord. #20-07, July 2020 *Ch7\_06-06-22*)

**8-224. Ruling of beer board.** The ruling of the beer board on such matters shall be final except as same is subject to review at law under Tennessee Code Annotated, § 57-5-108. (as added by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 ***Ch7\_06-06-22***, and Ord. #20-07, July 2020 ***Ch7\_06-06-22***)

**8-225. Penalty.** Any permittee, licensee, employee, agent, or person violating these sections shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed fifty dollars (\$50.00) for each violation. (as added by Ord. #14-02, April 2014, and replaced by Ord. #19-01, May 2019 ***Ch7\_06-06-22***, and Ord. #20-07, July 2020 ***Ch7\_06-06-22***)

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

1. SEXUALLY ORIENTED BUSINESSES.
2. TREE TRIMMING BUSINESSES REGULATIONS AND PERMIT REQUIREMENTS.

**CHAPTER 1****SEXUALLY ORIENTED BUSINESSES****SECTION**

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- 9-129. Enforcement.

**9-101. Purpose and findings.** (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

(2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the board of mayor and aldermen, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, Ky*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir.1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir.1986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir.1995); and *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir.1984), as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Commission on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the board of mayor and aldermen finds that:

(a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.

(b) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where

sexually oriented businesses are located. *See, e.g.*, Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.

(c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. *See, e.g.*, *California v. LaRue*, 409 U.S. 109, 111 (1972); *See also* Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(d) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. *See, e.g.*, Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

(e) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses. *See, e.g.*, *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 698 (1986); *see also* Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

(f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. *See, e.g.*, Study of Fort Meyers, Florida.

(g) For the period 1985 through 1995, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 523,056. *See, e.g.*, Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(h) As of February, 1999, there have been 8203 reported cases of AIDS in the State of Tennessee.

(i) Since 1981 and to the present, there has been an increasing cumulative number of persons testing positive for HIV antibody test in the State of Tennessee.

(j) The total number of cases of early (less than one year) syphilis in the United States reported during the ten year period 1985-1995 was 367,796. *See, e.g.*, Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(k) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,250,581 cases reported during the period 1993-1995. *See, e.g.* Statistics of the U.S.

Department of Health and Human Services, Centers for Disease Control and Prevention.

(l) The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.

(m) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. *See, e.g.* Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(n) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities. *See, e.g.*, Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(o) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films. *See, e.g.*, Final Report of the Attorney General's Commission on Pornography (1986) at 377.

(p) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. *See, e.g., Barnes v. Glen Theatre*, 501 U.S. 560, 583 (1991).

(q) Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use. *See, e.g., Kev, Inc. v. Kitsap County*, 793 F.2d 1053, 1056 (9th Cir.1986).

(r) The findings noted in paragraphs numbered (a) through (q) raise substantial governmental concerns.

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

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

sexually oriented business, fully in possession and control of the premises and activities occurring therein.

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

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

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

(x) The fact that an applicant for a sexually oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this chapter.

(y) The barring of such individuals from operation or employment in sexually oriented businesses for a period of five (5) years for a previous felony conviction serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(z) The general welfare, health, morals, and safety of the citizens of this city will be promoted by the enactment of this chapter. (Ord. #02-08, June 2002)

**9-102. Definitions.** (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore" or "adult video store" means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or

(b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "adult bookstore" or "adult video store." Such other business purposes will not serve to exempt such commercial establishments from being categorized as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

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

(a) Persons who appear in a state of nudity or semi-nudity; or

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

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas";  
or

(d) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

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

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

(b) Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

(c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.

(5) "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are

characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

(7) "Director" means the city manager or such persons as he may designate to perform the duties of the director under this chapter.

(8) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

(9) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

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

(11) "Establishment" means and includes any of the following:

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

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

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

(d) The relocation of any sexually oriented business; or

(e) A sexually oriented business or premises on which the sexually oriented business is located.

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

(13) "Licensee" means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

(14) "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

(15) "Nudity" or a "state of nudity" means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

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

(17) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to § 9-104 of this chapter;

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

(19) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

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

(21) "Specified anatomical areas" means:

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

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

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

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries.

(b) For which:

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

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

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

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

(23) "Specified sexual activities" means and includes any of the following:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

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

(c) Masturbation, actual or simulated; or

(d) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

(24) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas exist on May 1, 1999.

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

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. #02-08, June 2002)

**9-103. Classification.** Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers. (Ord. #02-08, June 2002)

**9-104. License required.** (1) It shall be unlawful:

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

(b) For any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license issued to such employee by the director pursuant to this chapter;

(c) For any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the director pursuant to this chapter.

(d) It shall be a defense to subsections (b) and (c) of this section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises. Violation of any provision within this subsection shall constitute a misdemeanor.

(2) An application for a sexually oriented business license must be made on a form provided by the city. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a

statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Prior to issuance of a license, the premises must be inspected by the health department, fire department, building department, and zoning department.

(3) An application for a sexually oriented business employee license must be made on a form provided by the city.

(4) All applicants for a license must be qualified according to the provisions of this chapter. The application may request, and the applicant shall provide, such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established under this chapter. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

(5) If a person who wishes to own operate a sexually oriented business is an individual, he must sign the application for a business license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten (10%) percent or greater interest in the business must sign the application for a business license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten (10%) percent or greater interest in the corporation must sign the application for a business license as applicant.

(6) Applications for a business license, whether original or renewal, must be made to the director by the intended operator of the enterprise. Applications must be submitted to the office of the director or the director's designee during regular working hours. Application forms shall be supplied by the director. The following information shall be provided on the application form:

(a) The name, street address (and mailing address if different) of the applicant(s);

(b) A recent photograph of the applicant(s);

(c) The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number;

(d) The name under which the establishment is to be operated and a general description of the services to be provided;

(i) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state

- (A) The sexually oriented business's fictitious name and
- (B) Submit the required registration documents;
- (e) Whether the applicant, or a person residing with the applicant, has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined in § 9-102 subsection (22), and, if so, the "specified criminal activity" involved, the date, place, and jurisdiction of each;
- (f) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business chapter from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually oriented business chapter whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;
- (g) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;
- (h) The single classification of license, as found in § 9-103, for which the applicant is filing;
- (i) The telephone number of the establishment;
- (j) The address and legal description of the tract of land on which the establishment is to be located;
- (k) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the business license is sought;
- (l) If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license). If the expected startup date is to be more than ten (10) days following the date of issuance of the business license, then a detailed explanation of the construction, repair or

remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;

(m) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 9-119.

(7) Each application for a business license shall be accompanied by the following:

(a) Payment of the application fee in full;

(b) If the establishment is a [State of Tennessee ] corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

(c) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

(d) If the establishment is a limited partnership formed under the laws of the State of Tennessee, a certified copy of the certificate of limited partnership, together with all amendments thereto;

(e) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;

(f) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;

(g) If the persons identified as the fee owner(s) of the tract of land in item (f) is not also the owner of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually oriented business;

(h) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, public park or recreation area, or family-oriented entertainment business within 1,500 feet of the property to be

certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted;

(i) Any of items (b) through (h) above shall not be required for a renewal application if the applicant states that the documents previously furnished to the director with the original application or previous renewals thereof remain correct and current.

(8) Applications for an employee license to work and/or perform services in a sexually oriented business, whether original or renewal, must be made to the director by the person to whom the employee license shall issue. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the director. Applications must be submitted to the office of the director or the director's designee during regular working hours. Each applicant shall be required to give the following information on the application form:

(a) The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;

(b) Age, and date and place of birth;

(c) Height, weight, hair color, and eye color;

(d) Present residence address and telephone number;

(e) Present business address and telephone number;

(f) Date, issuing state, and number of photo driver's license, or other state issued identification card information;

(g) Social Security Number; and

(h) Proof that the individual is at least eighteen (18) years old.

(9) Attached to the application form for a license shall be the following:

(a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police or sheriffs department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(b) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other city, county, state, or country, has ever had any license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(c) A statement whether the applicant has been convicted, or is awaiting trial on pending charges, of a “specified criminal activity” as defined in § 9-102, subsection (22) and, if so, the “specified criminal activity” involved, the date, place and jurisdiction of each.

(10) Every application for a license shall contain a statement under oath that:

(a) The applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct; and,

(b) The applicant has read the provisions of this chapter.

(11) A separate application and business license shall be required for each sexually oriented business classification as set forth in § 9-103.

(12) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business or employee license. (Ord. #02-08, June 2002)

**9-105. Issuance of license.** (1) Upon the filing of an application for a sexually oriented business employee license, the director shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for investigation to be made on the information contained in the application. The application process shall be completed within thirty (30) days from the date of the completed application. After the investigation, the director shall issue an employee license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(a) The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(b) The applicant is under the age of eighteen (18) years;

(c) The applicant has been convicted of a “specified criminal activity” as defined in § 9-102, subsection (22) of this chapter;

(d) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this chapter; or

(e) The applicant has had a sexually oriented business employee license revoked by the city within two (2) years of the date of the current application.

If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as forth in subsection (9) of this section.

(2) A license issued pursuant to subsection (1) of this section, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The employee shall keep the license on his or her person at all times while engaged in employment or performing services on the sexually oriented business premises so that said license may be available for inspection upon lawful request.

(3) A license issued pursuant to subsection (1) of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Director that the applicant has not been convicted of any "specified criminal activity" as defined in this chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-106. Non-renewal of a license shall be subject to appeal as set forth in subsection (9) of this section.

(4) If application is made for a sexually oriented business license, the director shall approve or deny issuance of the license within forty-five (45) days of receipt of the completed application. The director shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(a) An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(b) An applicant is under the age of eighteen (18) years;

(c) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months;

(d) An applicant or a person with whom the applicant is residing is overdue in payment to the city in taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business;

(e) An applicant or a person with whom the applicant is residing has been convicted of a "specified criminal activity" as defined in § 9-102, subsection (22);

(f) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building department as being in compliance with applicable laws and ordinances;

(g) The license fee required under this chapter has not been paid;

(h) An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this chapter.

(5) A license issued pursuant to subsection (4) of this section, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the § 9-103 classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(6) The health department, fire department, building department and zoning department shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the completed application by the director. The certification shall be promptly presented to the director.

(7) A sexually oriented business license shall issue for only one classification, as set forth in § 9-103.

(8) In the event that the director determines that an applicant is not eligible for a sexually oriented business license, the applicant shall be given notice in writing of the reasons for the denial within forty five (45) days of the receipt of the completed application by the director, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten (10) days in order to make modifications necessary to comply with this chapter.

(9) An applicant may appeal the decision of the director regarding a denial to the board of mayor and aldermen by filing a written notice of appeal with the city secretary within fifteen (15) days after service of notice upon the applicant of the director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The director may, within fifteen (15) days of service upon him of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the board of mayor and aldermen. After reviewing such memoranda, as well as the director's written decision, if any, and exhibits submitted to the director, the board of mayor and aldermen shall vote either to uphold or overrule the director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the city secretary receives the notice of appeal. However, all parties shall be required to comply with the director's decision during the pendency of the appeal. Judicial review of a denial by the director and board of mayor and aldermen may be made pursuant to § 9-111 of this chapter.

(10) A license issued pursuant to subsection (4) of this section shall be subject to annual renewal upon the written application of the applicant and a

finding by the director that the applicant has not been convicted of any “specified criminal activity” as defined in this chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (45) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-106. (Ord. #02-08, June 2002)

**9-106. Fees.** The annual fee for a sexually oriented business license, whether new or renewal, is five hundred (\$500.00) dollars. The annual fee for a sexually oriented business employee license, whether new or renewal, is fifty dollars (\$50.00). These fees are to be used to pay for the cost of the administration and enforcement of this chapter. (Ord. #02-08, June 2002)

**9-107. Inspection.** (1) An applicant or licensee shall permit representatives of the police department, sheriffs department, health department, fire department, building department, or other city or state departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is open for business.

(2) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he/she refuses to promptly permit such lawful inspection of the premises. (Ord. #02-08, June 2002)

**9-108. Expiration of license.** (1) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 9-104. Application for renewal should be made at least forty-five (45) days before the expiration date. When application is made less than forty-five (45) days before the expiration date, the expiration of the license will not be affected.

(2) When the director denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. (Ord. #02-08, June 2002)

**9-109. Suspension.** The director shall suspend a license for a period not to exceed thirty (30) days if he determines that licensee or an employee of licensee has:

- (1) Violated or is not in compliance with any section of this chapter;
- (2) Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
- (3) Refused to allow prompt inspection of the sexually oriented business premises as authorized by this chapter;

(4) With knowledge, permitted gambling by any person on the sexually oriented business premises. (Ord. #02-08, June 2002)

**9-110. Revocation.** (1) The director shall revoke a license if a cause of suspension in § 9-109 occurs and the license has been suspended within the proceeding twelve (12) months.

(2) The director shall revoke a license if he determines that:

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

(b) A licensee, or a person with whom the licensee is residing, was convicted of a “specified criminal activity” on a charge that was pending prior to the issuance of the license;

(c) A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;

(d) A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;

(e) A licensee has, with knowledge, permitted prostitution on the premises;

(f) A licensee has, with knowledge, operated the sexually oriented business during a period of time when the licensee's license was suspended;

(g) A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;

(h) A licensee is delinquent in payment to the city or state for any taxes or fees;

(i) A licensee has, with knowledge, permitted a person under eighteen (18) years of age to enter the establishment; or

(j) A licensee has attempted to sell his business license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee of the establishment;

(k) A licensee has, with knowledge, permitted a person or persons to engage in specified sexual activities on the premises of the sexually oriented business.

(3) When the director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. (Ord. #02-08, June 2002)

**9-111. Judicial review.** After denial of an initial or renewal application by the director and board of mayor and aldermen, or suspension or revocation of a license by the director, the applicant or licensee may seek prompt judicial

review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (Ord. #02-08, June 2002)

**9-112. No transfer of license.** A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Ord. #02-08, June 2002)

**9-113. Location restrictions.** Sexually oriented businesses shall be permitted in any commercial district provided that:

- (1) The sexually oriented business may not be operated within:
  - (a) 1,000 feet of a church, synagogue or regular place of religious worship;
  - (b) 1,000 feet of a public or private elementary or secondary school;
  - (c) 1,000 feet of a boundary of any residential district;
  - (d) 1,000 feet of a public park;
  - (e) 1,000 feet of a licensed day-care center;
  - (f) 1,000 feet of an entertainment business that is oriented primarily towards children or family entertainment; or
  - (g) 1,000 feet of another sexually oriented business.

(2) A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business that is classified in accordance with § 9-103.

(3) For the purpose of this chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day care center, or child or family entertainment business.

(4) For purposes of subsection (3) of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located. (Ord. #02-08, June 2002)

**9-114. Non-conforming uses; amortization.** (1) Any business lawfully operating on the effective date of this chapter that is in violation of the locational or structural configuration requirements of this chapter shall be deemed a non-conforming use. The non-conforming use will be permitted to

continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operated at a particular location is the conforming use and the later-established business(es) is non-conforming.

(2) A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, or child or family entertainment business within one thousand, five hundred (1,500) feet of the sexually oriented business. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked. (Ord. #02-08, June 2002)

**9-115. Additional regulations for adult motels.** (1) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this chapter.

(2) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(3) For purposes of subsection (2) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(4) Violation of subsection (2) of this section shall constitute a misdemeanor. (Ord. #02-08, June 2002)

**9-116. Additional regulations for escort agencies.** (1) An escort agency shall not employ any person under the age of 18 years.

(2) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(3) Violation of this section shall constitute a misdemeanor. (Ord. #02-08, June 2002)

**9-117. Additional regulations for nude model studios.** (1) A nude model studio shall not employ any person under the age of 18 years.

(2) A person under the age of 18 years commits a misdemeanor if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to the public view or visible by any other person.

(3) A person commits a misdemeanor if the person appears in a state of nudity, or with knowledge, allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

(4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (Ord. #02-08, June 2002)

**9-118. Additional regulations concerning public nudity.** (1) It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a state of nudity in a sexually oriented business, or depicts specified sexual activities in a sexually oriented business.

(2) It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a semi-nude condition on the sexually oriented business premises, unless the person is an employee who, while semi-nude, is at least ten (10) feet from any patron or customer and on a stage at least two (2) feet from the floor.

(3) It shall be a misdemeanor for an employee, while semi-nude on the sexually oriented business premises, to solicit any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude.

(4) It shall be a misdemeanor for an employee, while semi-nude, to touch a patron or the clothing of a patron, or for a patron to touch a semi-nude employee or the clothing of a semi-nude employee, while said employee is on the premises of the sexually oriented business. (Ord. #02-08, June 2002)

**9-119. Regulations pertaining to exhibition of sexually explicit films and videos.** (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises

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

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

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the director or his designee.

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

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

(f) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (e) of this section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks, or other object(s) shall obstruct from view of the manager's station any portion of the premises to which patrons have access. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no

patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to subsection (a) of this section.

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

(h) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(i) No viewing room or booth may be occupied by more than one person at any time.

(j) No opening of any kind shall exist between viewing rooms or booths.

(k) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one person at a time occupies viewing booths or rooms, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.

(l) The operator of the sexually oriented business shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

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

(2) A person having a duty under subsections (a) through (n) of this section commits a misdemeanor if he/she, with knowledge, fails to fulfill that duty. (Ord. #02-08, June 2002)

**9-120. Exterior portions of sexually oriented businesses.** (1) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

(2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have

flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

(3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(a) The establishment is a part of a commercial multi-unit center; and

(b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this section shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

(5) A violation of any provision of this section shall constitute a misdemeanor. (Ord. #02-08, June 2002)

**9-121. Signage.** (1) Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

(a) Not contain any flashing lights;

(b) Be a flat plane, rectangular in shape;

(c) Not exceed seventy-five (75) square feet in area;

(d) Not exceed ten (10) feet in height or ten (10) feet in length.

(3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(4) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(5) Secondary signs shall have only one (1) display surface. Such display surface shall:

(a) Be a flat plane, rectangular in shape;

(b) Not exceed twenty (20) square feet in area;

- (c) Not exceed five (5) feet in height and four (4) feet in width; and
- (d) Be affixed or attached to any wall or door of the enterprise.
- (6) The provisions of item (a) of subsection (2) and subsection (3) and (4) shall also apply to secondary signs.
- (7) Violation of any provision of this section shall constitute a misdemeanor. (Ord. #02-08, June 2002)

**9-122. Sale, use, or consumption of alcoholic beverages prohibited.** (1) The sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.

(2) Any violation of this section shall constitute a misdemeanor. (Ord. #02-08, June 2002)

**9-123. Persons younger than eighteen prohibited from entry; attendant required.** (1) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.

(2) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

(a) A valid operator's, commercial operator's, or chauffeur's driver's license; or

(b) A valid personal identification certificate issued by the State of Tennessee reflecting that such person is eighteen (18) years of age or older.

(3) Violation of this section shall constitute a misdemeanor. (Ord. #02-08, June 2002)

**9-124. Massages or baths administered by person of opposite sex.** It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this section shall constitute a misdemeanor. (Ord. #02-08, June 2002)

**9-125. Hours of operation.** No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, and one o'clock (1:00) A.M. and twelve o'clock (12:00) P.M. on Sundays. (Ord. #02-08, June 2002)

**9-126. Exemptions.** It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school, licensed by the State of Tennessee, a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. (Ord. #02-08, June 2002)

**9-127. Notices.** (1) Any notice required or permitted to be given by the director or any other city office, division, department or other agency under this chapter to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the director or his designee shall cause it to be posted at the principal entrance to the establishment.

(2) Any notice required or permitted to be given to the director by any person under this chapter shall not be deemed given until and unless it is received in the office of the director.

(3) It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the director in writing of any change of residence or mailing address. (Ord. #02-08, June 2002)

**9-128. Injunction.** A person who operates or causes to be operated a sexually oriented business without a valid business license, or in violation of § 9-113 of this chapter, is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation. (Ord. #02-08, June 2002)

**9-129. Enforcement.** This chapter shall be enforced from and after its date of passage by the board of mayor and aldermen. (Ord. #02-08, June 2002)

## CHAPTER 2

### TREE TRIMMING BUSINESSES REGULATIONS AND PERMIT REQUIREMENTS

#### SECTION

- 9-201. Definitions.
- 9-202. Permit and business license required.
- 9-203. Permit requirements.
- 9-204. Tree surgeons responsible for removal of debris.
- 9-205. Placement of debris in streets or on sidewalks prohibited.
- 9-206. Violations.

**9-201. Definitions.** For the purpose of enforcing this chapter, the term "tree surgeon" shall include any person, firm, corporation, or partnership, whether as owner, agent, or partner, who is professionally engaged for hire in the business of trimming, cutting, or removing trees within the corporate city limits of Medina, Tennessee. (as added by Ord. #10-03, April 2010)

**9-202. Permit and business license required.** It shall be unlawful for a tree surgeon to engage in such business within the City of Medina without first having secured a permit and business license issued by the City of Medina. (as added by Ord. #10-03, April 2010)

**9-203. Permit requirements.** (1) A permit shall be required for each individual location for which a tree surgeon seeks to trim, cut, or remove any tree. Said permit shall be valid for a period not to exceed ten (10) days from the date of issuance.

(2) A fee of ten dollars (\$10.00) shall be collected for the issuance of each permit.

(3) The applicant for such permit shall submit to the city recorder a written affidavit of application containing the following information:

(a) Name of applicant.

(b) Complete permanent business address of the permittee.

(c) The address or location of the site for which tree trimming, cutting, or removal is proposed.

(d) Applications shall be accompanied by documentation issued by an insurance company licensed in the State of Tennessee which certifies that the tree surgeon's business has secured liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00). (as added by Ord. #10-03, April 2010)

**9-204. Tree surgeons responsible for removal of debris.** All tree surgeons shall be wholly and solely responsible for the complete removal of all debris resulting from their activities. (as added by Ord. #10-03, April 2010)

**9-205. Placement of debris in streets or on sidewalks prohibited.** It shall be unlawful for any tree surgeon to place or leave any debris, temporarily or otherwise, along or within the right-of-way of a public street or on any sidewalk of the City of Medina. (as added by Ord. #10-03, April 2010)

**9-206. Violations.** A violation of § 9-206 of this chapter shall be punishable by a fine of fifty dollars (\$50.00), plus applicable court costs. Each day that such a violation is allowed to continue shall constitute a new and separate offense. (as added by Ord. #10-03, April 2010)

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

1. IN GENERAL.
2. DOGS AND CATS.
3. VICIOUS DOGS.
4. FOWLS INSIDE CORPORATE LIMITS.

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

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Violation and penalty.

**10-101. Running at large prohibited.** It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, mules, goats, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of the chapter, whether or not the disposition includes returning the animal to its owner. (Ord. #\_\_, May 1962, as replaced by Ord. #13-11, Nov. 2013)

**10-102. Keeping near a residence or business restricted.** Swine are prohibited within the corporate limits. No person shall keep or allow any other animal enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line. (Ord. #\_\_, May 1962, as replaced by Ord. #13-11, Nov. 2013)

**10-103. Pen or enclosure to be kept clean.** When animals 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. (Ord. #\_\_, May 1962, as replaced by Ord. #13-11, Nov. 2013)

**10-104. Storage of food.** All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (Ord. #\_\_\_, May 1962, as replaced by Ord. #13-11, Nov. 2013)

**10-105. Keeping in such manner as to become a nuisance prohibited.** No animal shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (Ord. #\_\_\_, May 1962, as replaced by Ord. #13-11, Nov. 2013)

**10-106. Seizure and disposition of animals.** Any animal found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound 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. The impounded animal must be claimed within seven (7) days. If not claimed by the owner, the animal shall be released to Gibson County Animal Control. The pound keeper shall collect from each person claiming an impounded animal reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (as added by Ord. #13-11, Nov. 2013)

**10-107. Violation and penalty.** Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense. (as added by Ord. #13-11, Nov. 2013)

## CHAPTER 2

### DOGS AND CATS

#### SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs and cats to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Tethering of dogs.
- 10-208. Seizure and disposition of dogs.
- 10-209. Cruelty to dogs and cats.
- 10-210. Destruction of vicious or infected dogs running at large.
- 10-211. Violation and penalty.

**10-201. Rabies vaccination and registration required.** It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law"<sup>1</sup> or other applicable law. (as added by Ord. #09-01, Feb. 2009, and replaced by Ord. #13-11, Nov. 2013)

**10-202. Dogs and cats to wear tags.** It shall be unlawful for any person to own, keep, or harbor any dog or cat which does not wear a tag evidencing the vaccination and registration required by the preceding section. (as added by Ord. #09-01, Feb. 2009, and replaced by Ord. #13-11, Nov. 2013)

**10-203. Running at large prohibited.** It shall be unlawful for any person knowingly to permit any dog or cat owned by him or under his control to run at large within the corporate limits. Any person knowingly permitting a dog or cat to run at large, including the owner of the dog or cat, may be prosecuted under this section even if the dog or cat is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (as added by Ord. #09-01, Feb. 2009, amended by Ord. #11-06, May 2011, and replaced by Ord. #13-11, Nov. 2013)

**10-204. Vicious dogs to be securely restrained.** It shall be unlawful for any person to own or keep any known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably

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<sup>1</sup>State law reference

Tennessee Code Annotated, §§ 68-8-101 through 68-8-113.

for the protection of other animals and persons. A violation of this section shall subject the offender to a penalty under the general penalty provision of this code.<sup>1</sup> (as added by Ord. #09-01, Feb. 2009, amended by Ord. #11-06, May 2011, and replaced by Ord. #13-11, Nov. 2013)

**10-205. Noisy dogs prohibited.** No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood. (as added by Ord. #09-01, Feb. 2009, and replaced by Ord. #13-11, Nov. 2013)

**10-206. Confinement of dogs suspected of being rabid.** If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated office or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (as added by Ord. #13-11, Nov. 2013)

**10-207. Tethering of dogs.** Tether means to restrain a dog by tying the dog to any object or structure, including without limitation a house, tree, fence, post, garage, or shed by any means, including without limitation a chain, rope, cord, leash, or running line. Tethering shall not include using a leash to walk a dog. It shall be unlawful for a responsible party to tether a dog while outdoors, except when all of the following conditions are met:

(1) The dog is in visual range of the responsible party, and the responsible party is located outside with the dog.

(2) The tether is connected to the dog by buckle-type collar or a body harness made of nylon or leather, not less than one inch (1") in width.

(3) The tether has the following properties: it is at least five (5) times the length of the dog's body, as measured from the tip of the nose to the base of the tail, it terminates at both ends with a swivel, it does not weigh more than the dogs weight, and it is free of tangles.

(4) The dog is tethered in such a manner as to prevent injury, strangulation, or entanglement.

(5) The dog is not outside during a period of extreme weather, including with limitation extreme heat or near-freezing temperatures, thunderstorms, tornadoes, tropical storms, or hurricanes.

(6) The dog has access to water, shelter, and dry ground.

(7) The dog is at least six (6) months of age. Puppies shall not be tethered.

(8) The dog is not sick or injured.

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<sup>1</sup>Municipal code reference

Vicious dogs: title 10, chapter 3.

(9) Pulley, running line, or trolley systems are at least fifteen feet (15') in length and are less than seven feet (7') above the ground.

(10) If there are multiple dogs, each dog is tethered separately. (as added by Ord. #13-11, Nov. 2013)

**10-208. Seizure and disposition of dogs.** Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag, the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within seven (7) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor aldermen, or after the seven (7) days, the dog will be released to Gibson County Animal Control. If the dog is not wearing a tag, it shall be released to Gibson County Animal Control unless legally claimed by the owner within seven (7) days. (as added by Ord. #13-11, Nov. 2013)

**10-209. Cruelty to dogs and cats.** It shall be unlawful for any person owning or in custody of any dog or cat to fail to provide said dog or cat with adequate food, water, shelter and veterinary care when reasonably required. It shall be unlawful for any person to beat, cruelly ill-treat, overload, overwork or otherwise abuse any dog or cat, or cause or permit any dog fight, with other animals or humans. It shall be unlawful for the owner or custodian of any dog or cat to abandon such animal. (as added by Ord. #13-11, Nov. 2013)

**10-210. Destruction of vicious or infected dogs running at large.** When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer. (as added by Ord. #13-11, Nov. 2013)

**10-211. Violation and penalty.** Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #13-11, Nov. 2013)

## CHAPTER 3

### VICIOUS DOGS

#### SECTION

- 10-301. Definition of terms.
- 10-302. Hearings panel.
- 10-303. Declaring a dog vicious.
- 10-304. Notice of vicious dog declaration.
- 10-305. Hearing on vicious dog declaration.
- 10-306. Requirements for keeping a vicious dog.
- 10-307. Impoundment and destruction.
- 10-308. Notice of impoundment.
- 10-309. Hearing on impoundment/destruction.
- 10-310. Exemption.
- 10-311. Change of status.
- 10-312. Dog fighting.
- 10-313. Change of ownership.
- 10-314. Penalties.
- 10-315. Right of entry by codes enforcer.

**10-301. Definition of terms.** As used in this chapter:

- (1) "Owner" means a person, firm or corporation keeping, possessing, harboring or having the care or custody of a dog.
- (2) "Vicious dog" means:
  - (a) Any dog which, "without provocation" has attacked or bitten a human being or domestic animal; or
  - (b) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting. (as added by Ord. #13-11, Nov. 2013)

**10-302. Hearing panel.** There is hereby created and established a hearings panel. The panel shall consist of three (3) members: one (1) veterinarian appointed by the mayor; one (1) person appointed by the mayor to be chosen from either a kennel owner, obedience trainer, or an animal rights association or like organization; one (1) person appointed by the mayor from a local humane society and suggested by said society. The term of an office of such panel members shall be three (3) years, no person can serve more than two (2) consecutive terms, the three (3) members will be on staggered appointments, one (1) each year. Members of the panel shall meet on an as-needed basis and shall serve without compensation. (as added by Ord. #13-11, Nov. 2013)

**10-303. Declaring a dog vicious.** If the hearing panel has cause to believe that a dog is vicious the hearings panel may find and declare that dog a vicious dog, subject to the following provisions:

(1) No dog may be declared vicious for injury or damage sustained by a person who was committing a willful trespass, or other tort, upon the premises of the dog's owner.

(2) No dog may be declared vicious for injury or damage sustained by a person who was teasing, tormenting, abusing, or assaulting the dog. (as added by Ord. #13-11, Nov. 2013)

**10-304. Notice of vicious dog declaration.** Within ten (10) days of declaring a dog vicious, the hearings panel shall notify the dog's owner in writing of the declaration. The notice shall identify the requirements and conditions for maintaining a vicious dog as set forth in this chapter. If the owner cannot be located, the dog may be immediately impounded and notice shall be posted on the owner's property or sent by certified mail to the owner's last known address. (as added by Ord. #13-11, Nov. 2013)

**10-305. Hearing on vicious dog declaration.** (1) The owner of a dog declared vicious shall have the right to file, within ten (10) days after receiving notice, a written request for a hearing to contest the vicious dog declaration. The hearing shall be held within thirty (30) days after the hearings panel receives the owner's written request.

(2) The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral or written evidence and cross examine witnesses.

(3) The hearing panel shall issue a decision within ten (10) days after the close of the hearing and shall notify the owner in writing of the decision.

(4) If the hearing panel upholds the vicious dog declaration, the owner shall comply with all the requirements and conditions for maintaining a vicious dog as set forth in this chapter.

(5) The decision of the hearings panel is final. (as added by Ord. #13-11, Nov. 2013)

**10-306. Requirements for keeping a vicious dog.** The owner of a vicious dog shall be subject to the following requirements:

(1) **Confinement.** All vicious dogs shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner. The pen or structure must have minimum dimensions of five feet (5') by ten feet (10') and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet (2'). All pens or structures must be adequately lighted and kept clean and sanitary. The enclosure must also protect the dog from the elements.

(2) Leash and muzzle. The owner of a vicious dog shall not allow the dog to go outside its kennel, pen or structure unless the dog is muzzled, restrained by a chain or leash not more than four feet (4') in length, and under the physical control of a person. The muzzle must not cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human or animal.

(3) Signs. The owner of a vicious dog shall display in a prominent place on the owner's premises a clearly visible warning sign indicating that there is a vicious dog on the premises. The sign must be readable from the public highway or thoroughfare. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog. Similar signs shall be posted on the dog's kennel, pen or structure. All said signs shall be no less than twelve inches (12") by twelve inches (12") in size.

(4) Insurance. The owner of a vicious dog must provide proof to the codes enforcer that the owner has procured public liability insurance of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any damage or personal injury which may be caused by his or her vicious dog. In the event said liability insurance is canceled, lapsed, or for any reason becomes non-enforceable, said owner shall be in violation of the provisions of this chapter and subject to the penalties provided herein. (as added by Ord. #13-11, Nov. 2013)

**10-307. Impoundment and destruction.** The codes enforcer or his authorized representative may order the impoundment of a dog; and the hearings panel may order the destruction of a dog where:

- (1) The dog has attacked, bitten, or injured a human being; or
- (2) The dog is a vicious dog as defined in § 10-301 and the owner has failed to comply with the requirements and conditions for keeping a vicious dog as defined in § 10-306. (as added by Ord. #13-11, Nov. 2013)

**10-308. Notice of impoundment.** Within ten (10) days of an impoundment, the codes enforcer or his authorized representative shall notify the dog's owner in writing of the impoundment. (as added by Ord. #13-11, Nov. 2013)

**10-309. Hearing on impoundment/destruction.** (1) Request for hearing. The owner of an impounded dog shall have the right to file within ten (10) days after receiving notice, a written request for a hearing to contest the impoundment.

(2) Informal hearing. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence and cross-examine witnesses.

(3) Decision. The hearings panel shall issue a decision within ten (10) days after the close of the hearing and shall notify the owner in writing of the decision.

(4) Order of destruction or release. After considering all relevant evidence, the hearings panel may order the destruction of the impounded dog, or may release the dog to its owner conditional on the owner complying with the requirements for keeping a vicious dog as set forth in § 10-306, or complying with any other requirements necessary to protect the public health and safety.

(5) Consequence of failure of owner to appear. If the owner of impounded dog fails to appear at a hearing or fails to request a hearing, the dog shall be destroyed.

(6) Expenses of impoundment. Any person who violates this chapter shall pay all expenses, including shelter food, handling, veterinary care and testimony necessitated by the enforcement of this chapter. (as added by Ord. #13-11, Nov. 2013)

**10-310. Exemption**. This chapter shall not apply to dogs used by a police department or law enforcement agency. (as added by Ord. #13-11, Nov. 2013)

**10-311. Change of status**. The owner of a vicious dog shall notify the codes enforcer or his authorized representative within twenty-four (24) hours, if the vicious dog is unconfined and on the loose, or has attacked a human being or animal. (as added by Ord. #13-11, Nov. 2013)

**10-312. Dog fighting**. No person shall possess, harbor, or maintain care or custody of any dog for the purpose of dog fighting, nor shall any person train, torment, badger, bait, or use any dog for the reason of causing or encouraging the dog to attack human beings or domestic animals. (as added by Ord. #13-11, Nov. 2013)

**10-313. Change of ownership**. If the owner of a vicious dog sells, gives away, or otherwise transfers custody of the vicious dog, the owner shall, within three (3) days, provide the codes enforcer or his authorized representative with the name, address, and telephone number of the new owner. The previous owner shall notify the new owner of the dog's designation as a vicious dog and of the requirements and conditions for keeping a vicious dog. (as added by Ord. #13-11, Nov. 2013)

**10-314. Penalties**. Whoever violates any provision of this chapter shall be guilty of a misdemeanor and may be punishable by a maximum fine of fifty dollars (\$50.00) for each violation. (as added by Ord. #13-11, Nov. 2013)

**10-315. Right of entry by codes enforcer.** It shall be the duty and authority of the codes enforcer or his authorized representative to enter onto any premises, public or private, at any reasonable hour of day to make inspection for the purpose of carrying out the provisions of this chapter. (as added by Ord. #13-11, Nov. 2013)

## CHAPTER 4

### FOWLS INSIDE CORPORATE LIMITS

#### SECTION

10-401. Fowls defined.

10-402. Keeping of fowls prohibited.

10-403. Pre-existing uses.

10-404. Health and sanitation standards for pre-existing uses.

10-405. Penalty for violation.

**10-401. Fowls defined.** For the purpose of administering the provisions of this chapter, the term "fowl" shall mean any of the larger domestic birds, specifically, chickens, ducks, geese, and turkeys. (as added by Ord. #13-11, Nov. 2013)

**10-402. Keeping of fowls prohibited.** It shall be unlawful for any person to have or keep chickens or other fowls upon any property or premises within the corporate limits of the City of Medina, Tennessee. (as added by Ord. #13-11, Nov. 2013)

**10-403. Pre-existing uses.** Nothing in § 10-402 of this chapter shall be construed as to require the discontinuance of the keeping of chickens or other fowls by persons legally keeping such animals within the corporate limits of the City of Medina on the effective date of the ordinance comprising this section, or within any area subsequently annexed by the City of Medina as of the effective date of such annexation ordinance, subject to the following conditions:

(1) Any such pre-existing use which is discontinued, for any reason, for a period of more than thirty (30) days shall not be re-established.

(2) It shall be unlawful for the owner or keeper of any such pre-existing use to add to the number of chickens or fowls kept on his premises after the effective date of the ordinance comprising this chapter.

(3) The provisions of § 10-404 of this chapter relating to the health, safety, and welfare of the community must be observed. (as added by Ord. #13-11, Nov. 2013)

**10-404. Health and sanitation standards for pre-existing uses.** The ownership or keeping of chickens or other fowls as a pre-existing use in the City of Medina shall conform to the following health and safety standards:

(1) Pen under enclosures. Pen, coops, and enclosures for keeping chickens or fowls shall not be located closer than one hundred feet (100') from any dwelling, house or residence and pens shall be kept clean and orderly at all times.

(2) Adequate food, water, shelter, etc., to be provided. No chickens or fowls 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 in a rat-proof and fly-tight building, box, or receptacle.

(3) Keeping in such manner as to be a nuisance prohibited. No chickens or fowls shall be kept or confined in such a place or condition as to become a nuisance due to noise, odor, contagious disease, or other reason.

(4) Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or purposely injure any chicken or other fowl.

(5) Seizure and disposition of chickens or fowls. Any chicken or other fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any law enforcement officer and confined in a pound 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 chicken or fowl shall be posted in at least three (3) public places within the corporate limits of Medina. In either case, the notice shall state that the impounded chicken 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 chicken 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 pound keeper shall collect from each person claiming an impounded chicken 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.

(6) Inspection of premises. For the purpose of making inspections to insure compliance with the provisions of the chapter, the health officer or his designated representative shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe a chicken or fowl is being kept in violation of this chapter. (as added by Ord. #13-11, Nov. 2013)

**10-405. Penalty for violation.** Any person found guilty of violation of this chapter shall be punishable by a fine of not more than fifty dollars (\$50.00) plus court costs for each such offense. Each day any violation of this chapter continues shall constitute a separate offense. (as added by Ord. #13-11, Nov. 2013)

**TITLE 11**

**MUNICIPAL OFFENSES**

**CHAPTER**

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. FIREARMS, WEAPONS AND MISSILES.
4. MISCELLANEOUS.
5. OBSCENITY, MORALS.
6. CURFEW FOR MINORS.

**CHAPTER 1**

**ALCOHOL<sup>1</sup>**

**SECTION**

11-101. Drinking beer, etc., on streets, etc.

**11-101. Drinking beer, etc., on streets, etc.** It shall be unlawful to possess open alcoholic beverages in public places and on streets of the City of Medina, Tennessee.

Anyone found guilty of violation of this section shall be punishable by a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00), for each such offense. (Ord. #93-04, \_\_\_\_ 1993)

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<sup>1</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

## CHAPTER 2

### OFFENSES AGAINST THE PEACE AND QUIET

#### SECTION

- 11-201. Anti-noise regulations.
- 11-202. Exceptions.
- 11-203. Violations.

**11-201. Anti-noise regulations.** It is unlawful to create, emit or cause to be emitted any excessive, loud and disturbing noise. The following shall be prima facie evidence of excessive, loud and disturbing noise:

(1) The use of any musical instrument, radio set, television set, phonograph, or other instrument, machine or device for amplifying, producing or reproducing sound, in such manner as to disturb the peace and comfort of the neighboring inhabitants at any time with louder volume than is necessary for convenient hearing of the persons who are in the room, chamber or in the vicinity in which such instrument, machine or device is operated and who are voluntary listeners thereto. The operation of any such instrument, machine or device between the hours of 9:00 P.M. and 6:00 A.M. in such a manner as to be plainly audible at a distance of fifty feet (50') or more from the building or structure in which it is located shall be prima facie a violation of this section.

(2) Any noise created for the entertainment, enjoyment or benefit of the creator or their guests shall be presumed to be excessive, loud and disturbing if any of the following apply:

(a) The noise is clearly audible for a distance of fifty feet (50') or more from the property line from which the noise emanates; or

(b) The noise occurs between the hours of 9:00 P.M. and 6:00 A.M. and can be heard more than fifty feet (50') beyond the property line from which the noise emanates.

(3) Noise created in vehicles, including a radio, tape or disk player or similar device, or by a device or devices on the vehicle or from the vehicle, other than vehicle horns, shall be a violation of this section and presumed excessive, loud and disturbing if the noise is audible at a distance of fifty feet (50') or more from the vehicle.

(4) Vehicle horn blown when the vehicle or operator is not in immediate danger or when not used to warn or signal immediate and/or eminent danger.

(5) Noise made to attract attention to an event or sale which is audible fifty feet (50') or more from the source.

(6) Persistent barking of a dog or other animal sounds which are audible fifty feet (50') or more from the source between 9:00 P.M. and 6:00 A.M. (Ord. #93-05, \_\_\_ 1993, as replaced by Ord. #12-06, July 2012, and Ord. #13-12, Nov. 2013)

**11-202. Exceptions.** The following shall be exempted from the provisions of § 11-201:

(1) Exterior construction using hammers, power tools or motor driven equipment between the hours of 6:00 A.M. and 9:00 P.M.

(2) Lawnmowers, brush clearing equipment, blowers, and other equipment used for cleaning or maintenance shall be exempted if the equipment meets the following provisions:

(a) The equipment is being operated and used for the purpose for which it was intended.

(b) The equipment is being operated with the use of all sound dampening devices which meet or exceed original equipment.

(c) The equipment is being used between the hours of 6:00 A.M. and 9:00 P.M.

(d) The equipment is used for the limited time required to accomplish the particular work or job activity.

(3) Scheduled events. Any organized public programs, activities, events and parades or other public programs, activities, or events shall be exempted from this section.

(4) Fireworks. The use of fireworks on July 1st, 2nd, 3rd and 5th between the hours of 6:00 A.M. and 10:00 P.M., July 4th between the hours of 6:00 A.M. and 12:00 P.M. and from December 31st at 6:00 A.M. until January 1st at 12:30 A.M.

(a) Any vendor selling fireworks in the City of Milan must display dates and hours that fireworks are exempted under this chapter. (as added by Ord. #13-12, Nov. 2013)

**11-202. Violations.** A violation of this chapter shall be punishable by a fine not to exceed fifty dollars (\$50.00) for each violation. (as added by Ord. #12-06, July 2012, and renumbered and replaced by Ord. #13-12, Nov. 2013)

**CHAPTER 3****FIREARMS, WEAPONS AND MISSILES****SECTION**

11-301. Weapons and firearms generally.

**11-301. Weapons and firearms generally.** It shall be unlawful for any person to discharge a firearm within the corporate limits of the City of Medina, Tennessee.

Anyone found guilty of violation of this section shall be punished by a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00), for each such offense. (Ord. #93-07, \_\_\_ 1993)

## CHAPTER 4

### MISCELLANEOUS

#### SECTION

11-401. Litter.

11-402. Vehicles on walking track.

11-403. Riding bicycles, skateboards etc. on sidewalks in commercially zoned areas and on walking track in North Park prohibited.

11-404. Basketball goals alongside or within public right-of-way.

**11-401. Litter.** It is the intention of the Mayor and Board of Aldermen of the City of Medina to encourage its citizens and visitors to beautify and keep clean all of the streets and public property of the city.

(1) It shall be unlawful for any person or corporation to litter the streets of the city or to litter any area which is city property, including but not limited to the areas around dumpsters which are provided by the city for city use. It is the intention of this section that anyone leaving bags of trash or any other litter around the dumpsters shall be in violation of this section.

(2) Any person or corporation found guilty of the violation of this section shall be subject to a fine of no less than \$25.00 and no more than \$100.00 for each offense. (Ord. #88-01, March 1988)

**11-402. Vehicles on walking track.** It shall be unlawful for any person to drive on the park walking track. This includes, but is not limited to: cars, trucks, four wheelers, motorcycles, bicycles, and go-carts.

Anyone found guilty of violation of this section shall be punishable by a fine of not less than fifty (\$50.00) for each offense. (Ord. #02-07, June 2002)

**11-403. Riding bicycles, skateboards etc. on sidewalks in commercially zoned areas and on walking track in North Park prohibited.** It shall be unlawful for any person to ride, use, or operate a bicycle, roller skates, or roller blades on any sidewalk located within a commercially zoned district in Medina and on the walking track in North Park. Nothing in this section, however, shall be construed to prohibit pedestrians from carrying on walking beside a bicycle, skateboard, roller skates, or roller blades while on sidewalks within said commercially zoned districts or on the walking track in North Park. (Ord. #03-01, Jan. 2003)

**11-404. Basketball goals alongside or within public right-of-way.**

(1) No portable or fixed basketball goal shall be placed, erected, or maintained on or alongside the right-of-way of any public street within the municipal limits of the City of Medina so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-

way or the presence of persons within a public street playing basketball on such a goal shall be a violation of this section.

(2) Any violation of this section shall be punishable by a fine of fifty dollars per occurrence. (as added by Ord. #04-04, April 2004)

**CHAPTER 5****OBSCENITY, MORALS****SECTION**

11-501. Pornography.

**11-501. Pornography.** It shall be unlawful for any person, corporation, partnership or business to sell, lease, rent or in any manner distribute pornography, such as x-rated videos, adult oriented literature, or any other printed matter disseminating pornography within the corporate limits of the City of Medina, Tennessee.

Anyone found guilty of violation of this section shall be punished by a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00) for each such offense. (Ord. #93-01, March 1993)

## CHAPTER 6

### CURFEW FOR MINORS

#### SECTION

- 11-601. Purpose.
- 11-602. Definitions.
- 11-603. Curfew enacted; exceptions.
- 11-604. Parental involvement in violation unlawful.
- 11-605. Involvement by owner or operator of vehicle unlawful.
- 11-606. Involvement by operator or employee of establishment unlawful.
- 11-607. Giving false information unlawful.
- 11-608. Enforcement.
- 11-609. Violation.

**11-601. Purpose.** The purpose of this chapter is to: (1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the city;

(2) Promote the safety and well-being of minors, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activity, particularly unlawful drug activity, and to being victimized by older criminals; and

(3) Foster and strengthen parental responsibility for children. (as added by Ord. #09-14, Oct. 2009)

**11-602. Definitions.** As used in this chapter, the following words have the following meanings:

(1) "Curfew hours" means the hours of 11:00 P.M. through 5:00 A.M. each day.

(2) "Emergency" means unforeseen circumstances, and the resulting condition or status, requiring immediate action to safeguard life, limb, or property. The word includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

(3) "Establishment" means any privately-owned business place within the city operated for a profit and to which the public is invited, including, but not limited to, any place of amusement or entertainment. The word "operator" with respect to an establishment means any person, firm, association, partnership (including its members or partners), and any corporation (including its officers) conducting or managing the establishment.

(4) "Minor" means any person under eighteen (18) years of age who has not been emancipated under Tennessee Code Annotated, § 29-31-101, et seq.

(5) "Parent" means: (a) A person who is a minor's biological or adoptive parent and who has legal custody of the minor, including either parent if custody is shared under a court order or agreement;

(b) A person who is the biological or adoptive parent with whom a minor regularly resides;

(c) A person judicially appointed as the legal guardian of a minor; and/or

(d) A person eighteen (18) years of age or older standing in loco parentis (as indicated by authorization by a parent as defined in this definition for the person to assume the care or physical custody of the minor, or as indicated by any other circumstances).

(6) "Person" means an individual and not a legal entity.

(7) "Public place" means any place to which the public or a substantial portion of the public has access, including, but not limited to: streets, sidewalks, alleys, parks, and the common areas of schools, hospitals, apartment houses or buildings, office buildings, transportation facilities, and shops.

(8) "Remain" means: (a) To linger or stay at or upon a place; or

(b) To fail to leave a place when requested to do so by a law enforcement officer or by the owner, operator, or other person in control of that place.

(9) "Temporary care facility" means a non-locked, non-restrictive shelter at which a minor may wait, under visual supervision, to be retrieved by a parent. A minor waiting in a temporary care facility may not be handcuffed or secured by handcuffs or otherwise to any stationary object. (as added by Ord. #09-14, Oct. 2009)

**11-603. Curfew enacted; exceptions.** It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked on any public place within the city, or to remain in or upon the premises of any establishment within the city, unless:

(1) The minor is accompanied by a parent; or

(2) The minor is involved in an emergency; or

(3) The minor is engaged in an employment activity, or is going to or returning home from employment activity, without detour or stop; or

(4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or

(5) The minor is attending an activity supervised by adults and sponsored by a school, religious, or civic organization, by a public organization or agency, or by a similar organization, or the minor is going to or returning from such an activity without detour or stop; or

(6) The minor is on a errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the name, signature, address, and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's

destination(s) and the hours the minor is authorized to be engaged in the errand; or

(7) The minor is involved in interstate travel through, or beginning or terminating in, the City of Medina; or

(8) The minor is exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and freedom of assembly. (as added by Ord. #09-14, Oct. 2009)

**11-604. Parental involvement in violation unlawful.** It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of § 11-603 of this chapter. (as added by Ord. #09-14, Oct. 2009)

**11-605. Involvement by owner or operator of vehicle unlawful.** It is unlawful for a person who is the owner or operator of a motor vehicle knowingly to permit, allow, or encourage a violation of § 11-603 of this chapter using the motor vehicle. (as added by Ord. #09-14, Oct. 2009)

**11-606. Involvement by operator or employee of establishment unlawful.** It is unlawful for the operator or any employee of an establishment knowingly to permit, allow, or encourage a minor to remain on the premises of the establishment during curfew hours. It is a defense to prosecution under this section that the operator or employee promptly notified law enforcement officials that a minor was present during curfew hours and refused to leave. (as added by Ord. #09-14, Oct. 2009)

**11-607. Giving false information unlawful.** It is unlawful for any person, including a minor, knowingly to give a false name, address, or telephone number to any law enforcement officer investigating a possible violation of § 11-603 of this chapter. Each violation of this section is punishable by a maximum fine of fifty dollars (\$50.00). (as added by Ord. #09-14, Oct. 2009)

**11-608. Enforcement.** (1) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-603 shall make an immediate investigation to determine whether or not the presence of the minor in a public place, motor vehicle, or establishment during curfew hours is a violation of that section. If the investigation reveals a violation and the minor has not previously been issued a warning, the officer shall issue a verbal warning to the minor to be followed by a written warning mailed by the police department to the minor and his/her parent(s). If the minor has previously been issued a warning for a violation, the officer shall charge the minor with a violation of § 11-603 and shall issue a citation requiring the minor to appear in court. In either case, the officer shall, as soon as practicable, release the minor to his/her parent(s) or place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours so the parent(s) may

retrieve the minor. If a minor refuses to give an officer his/her name and address or the name and address of his/her parent(s), or if no parent can be located before the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a crisis center or juvenile shelter and/or may be taken to a judge or juvenile intake officer of the juvenile court to be dealt with as required by law.

(2) Others. If an officer's investigation reveals that a person has violated §§ 11-603, 11-604, 11-605, or 11-606 of this chapter and the person has not been issued a warning with respect to a violation, the officer shall issue a verbal warning to the person to be followed by a written warning mailed by the police department to the person. If there has been a previous warning to the person, the officer shall charge the person with a violation and issue a citation directing the person to appear in court. (as added by Ord. #09-14, Oct. 2009)

**11-609. Violation.** Violation of §§ 11-603, 11-604, 11-605, or 11-606 subsequent to previous warning punishable by fine. A violation of §§ 11-603, 11-604, 11-605, or 11-606 subsequent to receiving a verbal warning as provided in § 11-608 is punishable by a maximum fine of fifty dollars (\$50.00) for each violation. (as added by Ord. #09-14, Oct. 2009)

## TITLE 12

### BUILDING, UTILITY, ETC. CODES

#### CHAPTER

1. RESIDENTIAL CODE.
2. BUILDING CODE.
3. PLUMBING CODE.
4. MECHANICAL CODE.
5. FUEL GAS CODE.

#### CHAPTER 1

### RESIDENTIAL CODE

#### SECTION

- 12-101. Residential code adopted.
- 12-102. Modifications.
- 12-103. Available in city recorder's office.
- 12-104. Violations and penalty.

**12-101. Residential code adopted.** Pursuant to the authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three (3) stories in height and providing for the issuance of permits therefor, the International Residential Code,<sup>1</sup> 2018 edition, including Appendices A, B, C, G, and J, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as part of Medina City Code and is hereinafter referred to as the International Residential Code. (as added by Ord. #05-13, Jan. 2006, and replaced by Ord. #13-02, March 2013, Ord. #13-14, Dec. 2013, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 **Ch 7\_06-06-22**)

**2-102. Modifications.** (1) "The City of Medina" shall be inserted into all blanks referencing the name of the jurisdiction or municipality.

(2) Section R113.4. The following text shall be deleted: "shall be subject to penalties as prescribed by law"; and substituting the following language: "shall be guilty of a misdemeanor, punishable by a fine of not more than fifty

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

dollars (\$50.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense."

(3) Section R114.2. The following text shall be deleted: "shall be subject to penalties as prescribed by law"; and substituting the following language: "shall be liable for a fine of not more than fifty dollars (\$50.00)."

(4) Table R301.2(1). The following design criteria shall be inserted in the blanks for the design criteria of Table R301.2(1):

- (a) Ground Snow Load - 10
- (b) Wind Speed - 90
- (c) Wind Topographic effects - No
- (d) Seismic Design Category - D1
- (e) Subject to Damage from Weathering - Moderate
- (f) Subject to Damage from Frost line depth - 12"
- (g) Subject to Damage from Termites - Very Heavy
- (h) Ice Barrier Underlayment Required - No

(5) Section R302.2. The following text shall be deleted: "Exception: A common 1-hour fire-resistance-rated wall"; substituting the following language: "Exception: A common 2-hour fire-resistance-rated wall."

(6) Section R313.2 shall be deleted in its entirety with no substitution.

(7) Section P2603.6.1. Insert the words "18 inches" into the appropriate spaces for establishing sewer depths.

(8) Chapters 34 through 43 are here by deleted in their entirety with no substitution.

(9) In Article 1, Section 2, (d), (7) The following text shall be deleted: "Subject to damage from termites - Moderate" and substituting the following language: "Subject to damage from termites - Very Heavy". (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 **Ch7\_06-06-22**)

**12-103. Available in the city recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of this code shall be placed on file in the office of the Medina City Recorder and shall be kept there for the use and inspection of the public. A copy of the ordinance comprising this chapter shall be kept with the aforementioned codes. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

**12-104. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the code referenced in § 12-101 of this chapter as herein adopted by reference and modified. The violation of provisions of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

## CHAPTER 2

### BUILDING CODE

#### SECTION

12-201. Building code adopted.

12-202. Modifications.

12-203. Available in city recorder's office.

12-204. Violations and penalty.

**12-201. Building code adopted.** Pursuant to the authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to built environments, the International Building Code,<sup>1</sup> 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as part of Medina City Code and is hereinafter referred to as the International Building Code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 *Ch7\_06-06-22*)

**12-202. Modifications.** (1) "The City of Medina" shall be inserted into all blanks referencing the name of the jurisdiction or municipality.

(2) The blanks referring to the date of issuance shall be the effective date of this ordinance.

(3) Section R114.4. The following text shall be deleted: "shall be subject to penalties as prescribed by law;" and substituting the following language: "shall be guilty of a misdemeanor punishable by a fine of not more than fifty dollars (\$50.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense."

(4) Section R115.3. The following text shall be deleted: "shall be subject to penalties as prescribed by law"; and substituting the following language: "shall be liable for a fine of not more than fifty dollars (\$50.00). (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 *Ch7\_06-06-22*)

**12-203. Available in the city recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of this code

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

shall be placed on file in the office of the Medina City Recorder and shall be kept there for the use and inspection of the public. A copy of the ordinance comprising this chapter shall be kept with the aforementioned code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

**12-204. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the code referenced in § 12-201 of this chapter as herein adopted by reference and modified. The violation of provisions of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

## CHAPTER 3

### PLUMBING CODE

#### SECTION

- 12-301. Plumbing code adopted.
- 12-302. Modifications.
- 12-303. Available in city recorder's office.
- 12-304. Violations and penalty.

**12-301. Plumbing code adopted.** Pursuant to the authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing minimum standards to safeguard life and limb, health, property and public welfare by regulating and controlling the design, erection, installation, alteration, repairs, relocation, replacement, addition to, use, maintenance and inspection of plumbing equipment and systems within the City of Medina, the International Plumbing Code,<sup>1</sup> 2018 edition, including Appendices B, D and F, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as part of Medina City Code and is hereinafter referred to as the International Plumbing Code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 *Ch7\_06-06-22*)

**12-302. Modifications.** (1) "The City of Medina" shall be inserted into all blanks referencing the name of the jurisdiction or municipality.

(2) Section 106.6.2. The fee schedule shall be as periodically set by the Medina Board of Mayor and Aldermen.

(3) Section 106.6.3. Paragraphs #2 and #3 are hereby deleted in their entirety with no substitution.

(4) Section 108.4. The blanks referring to violations shall be inserted with "misdemeanor" and "fifty dollars (\$50.00)" as appropriate; and all references to imprisonment shall be deleted.

(5) Section 108.5. The phrase "fifty dollars (\$50.00)" shall be inserted into the blanks specifying the maximum fine for violation of the code.

(6) Section 305.6.1. The phrase "18 inches" shall be inserted into the blanks referring to the minimum depths for underground sanitary sewer installations.

(7) Section 904.1. The phrase "12 inches" shall be inserted into the blanks referring to the minimum heights for roof vents. (as added by

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013, Ord. #17-01, Feb 2017, and Ord. #20-01, May 2020 *Ch7\_06-06-22*)

**12-303. Available in the city recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of this code shall be placed on file in the office of the Medina City Recorder and shall be kept there for the use and inspection of the public. A copy of the ordinance comprising this chapter shall be kept with the aforementioned code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

**12-304. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the code referenced in § 12-301 of this chapter as herein adopted by reference and modified. The violation of provisions of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

## CHAPTER 4

### MECHANICAL CODE

#### SECTION

- 12-401. Mechanical code adopted.
- 12-402. Modifications.
- 12-403. Available in city recorder's office.
- 12-404. Violations and penalty.

**12-401. Mechanical code adopted.** Pursuant to the authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing minimum standards to safeguard life and limb, health, property and public welfare by regulating and controlling the design, erection, installation, alteration, repairs, relocation, replacement, addition to, use, maintenance and inspection of mechanical equipment and systems within the City of Medina, the International Mechanical Code,<sup>1</sup> 2018 edition, including Appendix A, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as part of Medina City Code and is hereinafter referred to as the International Mechanical Code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 **Ch7\_06-06-22**)

**12-402. Modifications.** (1) "The City of Medina" shall be inserted into all blanks referencing the name of the jurisdiction or municipality.

(2) Section 106.5.2. The fee schedule specified in this section shall be as periodically set by the Medina Board of Mayor and Aldermen.

(3) Section 106.5.3. Paragraphs #2 and #3 are hereby deleted in their entirety with no substitution.

(4) Section 108.4. The blanks referring to violations shall be inserted with "misdemeanor" and fifty dollars (\$50.00) as appropriate; and all references to imprisonment shall be deleted.

(5) Section 108.5. The phrase "fifty dollars (\$50.00)" shall be inserted into the blanks specifying the maximum fine for violation of the code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 **Ch7\_06-06-22**)

**12-403. Available in the city recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of this code shall be placed on file in the office of the Medina City Recorder and shall be kept

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

there for the use and inspection of the public. A copy of the ordinance comprising this chapter shall be kept with the aforementioned code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

**12-404. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the code referenced in § 12-401 of this chapter as herein adopted by reference and modified. The violation of provisions of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

## CHAPTER 5

### FUEL GAS CODE

#### SECTION

- 12-501. Fuel gas code adopted.
- 12-502. Modifications.
- 12-503. Available in city recorder's office.
- 12-504. Violations and penalty.

**12-501. Fuel gas code adopted.** Pursuant to the authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing minimum standards to safeguard life and limb, health, property and public welfare by regulating and controlling the design, erection, installation, alteration, repairs, relocation, replacement, addition to, use, maintenance and inspection of gas systems within the City of Medina, the International Fuel Gas Code,<sup>1</sup> 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as part of Medina City Code and is hereinafter referred to as the International Fuel Gas Code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 **Ch7\_06-06-22**)

**12-502. Modifications.** (1) "The City of Medina" shall be inserted into all blanks referencing the name of the jurisdiction or municipality.

(2) Section 106.6.2. The fee schedule shall be as periodically set by the Medina Board of Mayor and Aldermen.

(3) Section 106.6.3. Paragraphs #2 and #3 are hereby deleted in their entirety with no substitution.

(4) Section 108.4. The blanks referring to violations shall be inserted with "misdemeanor" and "fifty dollars (\$50.00)" as appropriate; all references to imprisonment shall be deleted.

(5) Section 108.5. The phrase "fifty dollars (\$50.00)" shall be inserted into the blanks specifying the maximum fine for violation of the code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013, Ord. #17-01, Feb. 2017, and Ord. #20-01, May 2020 **Ch7\_06-06-22**)

**12-503. Available in the city recorder's office.** Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of this code shall be placed on file in the office of the Medina City Recorder and shall be kept there for the use and inspection of the public. A copy of the ordinance comprising

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<sup>1</sup>Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

this chapter shall be kept with the aforementioned code. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

**12-504. Violations and penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the code referenced in § 12-501 of this chapter as herein adopted by reference and modified. The violation of provisions of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense. (as added by Ord. #13-02, March 2013, and replaced by Ord. #13-14, Dec. 2013)

## TITLE 13

### PROPERTY MAINTENANCE REGULATIONS

#### CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKED VEHICLES.
4. STORAGE AND COLLECTION OF BULK WASTES.

#### CHAPTER 1

#### MISCELLANEOUS<sup>1</sup>

#### SECTION

- 13-101. Weeds.  
 13-102. Health and sanitation nuisances.  
 13-103. Trash, debris, etc., on property.

**13-101. Weeds.** Every owner or tenant of property, excluding A-1, 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 city recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (Ord. #1997-3, \_\_\_)

**13-102. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (Ord. #1997-4, \_\_\_)

**13-103. Trash, debris, etc., on property.** The owner or other person responsible for the care of land within the corporate limits of Medina, Tennessee, is hereby required to keep such property free and clear of cans, bottles, trash, and other debris, and high grass and weeds.

Any person, firm, corporation, or other entity violating this section shall be guilty of a misdemeanor.

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<sup>1</sup>Municipal code reference

Interference with garbage containers: § 17-101.

Any building condemned by the fire marshal of the State of Tennessee, or any other official having authority to do so, shall be deemed to be trash or other debris within the meaning of this section.

As an additional remedy, the City of Medina may, through its own employees, casual labor, or independent contractors, clear all such property of cans, bottles, trash, other debris, or high grass and weeds, and charge the owner thereof at the cost price to the city and bill the owner therefor. Before the city takes any action under this section, it shall notify the owner of the property by regular United States Mail, if possible to do so, or write him at his last known address.

If the owner does not pay the charge or charges mentioned above the city shall add the amount of such charge or charges to the tax rolls of the city for the next taxable year and require the owner of the land to pay such charge before paying the taxes on the land in question. (Ord. #1997-5, \_\_\_\_)

## CHAPTER 2

### SLUM CLEARANCE<sup>1</sup>

#### SECTION

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

**13-201. Findings of board.** Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (Ord. #00-07, Sept. 2000)

**13-202. Definitions.** (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

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

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

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

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

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (Ord. #00-07, Sept. 2000)

**13-203. "Public officer" designated; powers.** There is hereby designated and appointed a "public officer," to be the mayor of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the mayor. (Ord. #00-07, Sept. 2000)

**13-204. Initiation of proceedings; hearings.** Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (Ord. #00-07, Sept. 2000)

**13-205. Orders to owners of unfit structures.** If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #00-07, Sept. 2000)

**13-206. When public officer may repair, etc.** If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (Ord. #00-07, Sept. 2000)

**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. (Ord. #00-07, Sept. 2000)

**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 be assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Gibson 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 collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been

joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Gibson County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Medina to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (Ord. #00-07, Sept. 2000)

**13-209. Basis for a finding of unfitness.** The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Medina. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (Ord. #00-07, Sept. 2000)

**13-210. Service of complaints or orders.** Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Gibson County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #00-07, Sept. 2000)

**13-211. Enjoining enforcement of orders.** Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the

posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (Ord. #00-07, Sept. 2000)

**13-212. Additional powers of public officer.** The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

- (1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #00-07, Sept. 2000)

**13-213. Powers conferred are supplemental.** This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (Ord. #00-07, Sept. 2000)

**13-214. Structures unfit for human habitation deemed unlawful.** It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #00-07, Sept. 2000)

## CHAPTER 3

### JUNKED VEHICLES<sup>1</sup>

#### SECTION

- 13-301. Definitions.
- 13-302. Violations a civil offense.
- 13-303. Exceptions.
- 13-304. Enforcement.
- 13-305. Penalty for violations.

**13-301. Definitions.** For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

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

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

(3) "Street or highway" shall include all property that is the street right-of-way, including that property defined herein as "traveled portion of any public street or highway," any shoulders or ditches, embankments, "pull-offs" or other property immediately abutting the traveled portion of any public street or highway, and any and all other property within the public street or highway.

(4) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily travel.

(5) (a) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

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<sup>1</sup>Municipal code reference

Disposal of abandoned motor vehicles: § 15-503.

Storage of disabled motor vehicles: § 15-502.

- (i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;
- (ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle;
- (iii) Extensive exterior body damage or missing or partially or totally disassembled essential body part, including, but not limited to, fenders, doors, engine hood, bumper, or bumpers, windshield, or windows;
- (iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever;
- (v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator;
- (vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;
- (vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on blocks, or suspended in the air by any other method;
- (viii) General environment in which the vehicle sits, including, but not limited to vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of the garbage or debris around the vehicle. (Ord. #00-08, Oct. 2000)

**13-302. Violations a civil offense.** It shall be unlawful and a civil offense for any person:

- (1) To park and/or in any other manner place and leave unattended on the traveled portion of any street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.
- (2) To park or in any other manner place and leave unattended on the public street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.
- (3) To park, store, keep, maintain on private property a junk vehicle for more than sixty (60) days. (Ord. #00-08, Oct. 2000)

**13-303. Exceptions.** (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property, maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the City of Medina. (Ord. #00-08, Oct. 2000)

**13-304. Enforcement.** Any police officer is authorized to issue citations for violations of this chapter. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is also authorized to issue ordinance summons for violation of this chapter on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may

(3) Request the city judge to issue a summons, or

(4) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101 et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. (Ord. #00-08, Oct. 2000)

**13-305. Penalty for violations.** Any person violating this chapter shall be subject to a civil penalty of \$500 for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. However, nothing in this chapter shall be construed to make this chapter the city's exclusive remedy for junked vehicles within the city. The city expressly reserves and retains any other administrative or penal or civil remedy

governing junked or abandoned vehicles that may exist under state law or its ordinances. (Ord. #00-08, Oct. 2000)

**CHAPTER 4****STORAGE AND COLLECTION OF BULK WASTES****SECTION**

- 13-401. Definitions.
- 13-402. Standards and procedures for placement and collection of yard wastes and bulk wastes.
- 13-403. Limitations on the collection of yard wastes and bulk wastes.
- 13-404. Fees for the removal of large or excessive amounts of yard wastes or bulk wastes.
- 13-405. Exceptions.
- 13-406. Effective date.
- 13-407. Severability.
- 13-408. Repealer.

**13-401. Definitions.** For the purposes of this chapter, the following definitions shall apply:

(1) "Bulk waste." Wooden boxes, crates, furniture, appliances, bedding, and other refuse items which by their size, shape, or weight cannot be readily placed in a city-approved refuse storage container. Bulk waste shall not include yard waste.

(2) "City." The City of Medina, Tennessee.

(3) "Construction waste." Any material such as lumber, brick, block, stone, plaster, concrete, asphalt, roofing shingles, gutter, or any other substances accumulated as the result of repairs, removals, or additions to existing buildings or structures, and the construction of new buildings or structures.

(4) "Yard waste." Grass clippings, leaves, tree and shrubbery clippings or trimmings, and other related wastes resulting from normal maintenance and care of landscaped, manicured, grounds and lawns but not including cuttings and leaves from the clearing of grounds that have been left in their natural state without annual maintenance. (as added by Ord. #10-09, Aug. 2010)

**13-402. Standards and procedures for placement and collection of yard wastes and bulk wastes.** (1) Piling of brush for collection. All brush shall be neatly stacked in an unscattered manner. Small trimmings shall be stacked on top of larger ones, but with the butt ends pointed in the same direction. Yard waste collections shall not be made where it is loosely scattered.

(2) Separation of items to be collected. Yard wastes, garbage, construction wastes, and bulk wastes shall be placed in separate piles for the purpose of collection. Bricks, rock, and dirt shall not be collected, nor shall such items be mixed with other items to be collected.

(3) Grass clippings and leaves. All leaves and grass clippings shall be placed in plastic bags for collection. Leaves and grass clippings shall be placed curbside for collection. Bagged leaves and grass clippings shall not be placed at street for collection until day before scheduled pickup date.

(4) Persons engaged in commercial landscaping, tree trimming, or tree repair. No person shall perform for economic gain, any landscaping, tree trimming, or tree repair wherein an accumulation of brush, vines, wood, or other similar wastes are produced, without being equipped with a truck or other vehicle capable of removing said wastes and which shall be so removed by the person causing or creating its accumulation.

(5) Bulk waste placement. Bulk wastes shall not be placed at the street for collection until the day before it is scheduled to be picked up. (as added by Ord. #10-09, Aug. 2010)

**13-403. Limitations on the collection of yard wastes and bulk wastes.** Yard wastes and bulk wastes not stored and placed as provided in this chapter shall be removed from the premises by the owner and/or producer at his expense. The following items of refuse shall also be removed by the owner/producer at his expense:

(1) Construction wastes.

(2) Refuse including brush, leaves, stumps, vines, and any material resulting from the cleaning or clearing of vacant property whether such cleaning or clearing was done by a contractor, the owner, or any other person.

(3) Automotive vehicles, or parts of such vehicles which cannot be readily placed in a city-approved refuse storage container.

(4) Any wastes or refuse which must be pushed or pulled into piles by mechanical means.

(5) Any refuse resulting from work performed by contractors or any other person for economic gain, whether such gain is in the form of cash or barter, shall be removed by the owner, occupant, or producer except that nothing in this subsection shall be construed as to prohibit the collection of wastes generated by yardboys.

(6) Not more than one (1) pickup truck load of yard waste or bulk waste shall be removed from any residential establishment by the city during any thirty (30) day period, unless it is determined by the city to be in the best interest of the community for health, safety or welfare reasons to remove the entire accumulation. The property owner and/or producer of yard wastes or bulk wastes shall be required to reimburse the city for its costs incurred in making more frequent collections, as specified in § 13-404 of this chapter. (as added by Ord. #10-09, Aug. 2010)

**13-404. Fees for removal of large or excessive amounts of yard wastes or bulk wastes.** The property owner and/or producer of yard wastes or bulk wastes shall receive a bill from the city for the actual, reasonable costs

incurred in the collection and disposal of wastes which do not meet the placement, size, weight, or volume standards enumerated in §§ 13-401 and 13-402 of this chapter. All such bills submitted by the city shall be payable within thirty (30) days of issuance. Costs eligible for inclusion in the city's bill shall be:

(1) Labor and pro-rata benefits for all city employees engaged in the collection and disposal of the wastes, including supervisory and administrative expenses.

(2) The cost of using city-owned or rented equipment, including time and mileage charges.

(3) The cost of hiring contractors, engineers, or other specialists.

(4) The cost of tipping fees and related fees at the disposal site.

(5) The costs of any special insurance required for collection and disposal.

(6) The cost of any special permits required for handling, transportation, or disposal. (as added by Ord. #10-09, Aug. 2010)

**13-405. Exceptions.** Nothing in this chapter shall prevent:

(1) Any refuse producer from collecting, removing, and disposing of his own yard waste or bulk waste, provided that he does so in such manner as not to create a nuisance.

(2) Any licensed junk dealer from collecting refuse recognized as having salvage value, provided such dealer may collect such salvageable material only from premises where he has written invitation from the occupant.

(3) Any waste producer or owner from selling salvageable materials to licensed junk dealers for collection, removal or disposal. (as added by Ord. #10-09, Aug. 2010)

**13-406. Effective date.** The ordinance comprising this chapter shall be in full force and effect from and after its date of passage by the board of mayor and aldermen. (as added by Ord. #10-09, Aug. 2010)

**13-407. Severability.** Should any section, paragraph, sentence, clause, or phrase of the ordinance comprising this chapter or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of the ordinance comprising this chapter be preempted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of the ordinance comprising this chapter or its application to other persons or circumstances. (as added by Ord. #10-09, Aug. 2010)

**13-408. Repealer.** All ordinances and parts of ordinances which are inconsistent with the provisions of the ordinance comprising this chapter are

hereby repealed to the extent of such inconsistency. (as added by Ord. #10-09, Aug. 2010)

**TITLE 14****ZONING AND LAND USE CONTROL****CHAPTER**

1. PLANNING COMMISSION.
2. MUNICIPAL FLOODPLAIN ZONING ORDINANCE.
3. ZONING ORDINANCE.

**CHAPTER 1****PLANNING COMMISSION****SECTION**

- 14-101. Mayor's term of office on the planning commission.
- 14-102. Term of office for aldermanic appointment.
- 14-103. Terms of office for remaining members of the planning commission.

**14-101. Mayor's term of office on the planning commission.** In compliance with Tennessee Code Annotated, § 13-4-101, the Mayor of Medina, or his representative, shall serve on the planning commission. The mayor's term of office shall coincide with his service as mayor, and such membership on the planning commission shall automatically expire when the mayor's term of office is ended. The mayor's new term shall begin upon each successive term of office. (as added by Ord. #04-06, June 2004, and replaced by Ord. #04-14, Sept. 2004, and Ord. #13-03, March 2013)

**14-102. Term of office for aldermanic appointment.** In compliance with Tennessee Code Annotated 13-4-101, one (1) Medina alderman is to serve on the planning commission. The aldermanic appointment shall be made by the City of Medina Board of Mayor and Aldermen. Such appointed alderman shall serve on the planning commission for the period of time that shall coincide with his or her service as alderman. An alderman appointed to serve on the planning commission may be reappointed to such service by the board of mayor and aldermen. (as added by Ord. #04-06, June 2004, and replaced by Ord. #04-14, Sept. 2004, and Ord. #13-03, March 2013)

**14-103. Terms of office for remaining members of the planning commission.** Immediately upon the passage of the ordinance comprising this chapter to amend title 14, chapter 1, the mayor shall declare the five (5) remaining seats on the planning commission to be vacant. Thereupon, the mayor shall appoint five (5) qualified persons to the following terms of office on the planning commission:

- (1) One (1) person shall be appointed to serve until January 2, 2014.

(2) Two (2) persons shall be appointed to serve until January 2, 2015.

(3) Two (2) persons shall be appointed to serve until January 2, 2016.

Thereafter, the mayor shall appoint members to the planning commission, excluding the mayoral and aldermanic members of the commission, to terms of three (3) years, each expiring on January 2nd. A member serving on the commission may be reappointed at the pleasure of the mayor. Any member on the commission appointed by the mayor may also be removed at the pleasure of the mayor. (as added by Ord. #04-06, June 2004, and replaced by Ord. #04-14, Sept. 2004, and Ord. #13-03, March 2013)

**14-104. Opt out of state mandated training.** (1) City of Medina to opt out of state mandated training for members of the planning and zoning commission. Pursuant to chapter 862 of the 2002 Public Acts of the Tennessee General Assembly, section 6, paragraph (9), the City of Medina hereby exercises its right to opt out of all state mandated training and continuing education requirements for members of the Medina Municipal/Regional Planning Commission and Board of Zoning Appeals.

(2) Training requirements may be reinstated. Nothing in this section shall be construed to prohibit the City of Medina Board of Mayor and Aldermen from appropriating funds for training and/or continuing education programs for members of the Medina Municipal/Regional Planning Commission and Board of Zoning Appeals, nor shall this section prohibit the City of Medina from opting into state mandated education and training programs at a later date. (as added by Ord. #13-04, March 2013)

## CHAPTER 2

### MUNICIPAL FLOODPLAIN ZONING ORDINANCE

#### SECTION

- 14-201. Statutory authorization, findings of fact, purpose and objectives.
- 14-202. Definitions.
- 14-203. General provisions.
- 14-204. Administration.
- 14-205. Provisions for flood hazard reduction.
- 14-206. Variance procedures.

**14-201. Statutory authorization, findings of fact, purpose and objectives.** 1. Statutory authorization. The Legislature of the State of Tennessee has in §§ 13-7-201 through 13-7-210; Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Medina, Tennessee Mayor and Board of Aldermen, does ordain as follows:

2. Findings of fact. a. The Medina Mayor and Aldermen wish to establish 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 Medina 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 establish eligibility for participation in the National Flood Insurance Program. (as added by Ord. #05-12, Dec. 2005)

**14-202. 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 A0 or AH zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet 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 or greater chance of flooding in any given year. The area may be designated as zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AO, A1-30, AE or A99.

8. "Base flood" means the flood having a one percent 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 of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

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 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 within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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 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 180 consecutive days or longer.

44. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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. 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 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, A1-30, 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 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 50 percent of the market value of the structure before the damage occurred.

61. "Substantial improvement" means any repairs, reconstruction's, rehabilitation's, additions, alterations or other improvements to a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) 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.

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 50 percent 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 relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #05-12, Dec. 2005)

**14-203. General provisions.** 1. Application. This ordinance shall apply to all areas within the incorporated area of Medina, Tennessee.

2. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Medina, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number 47039 0250, dated October 18, 1983, 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.

d. 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 manmade 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 Medina, 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.

e. 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 Medina, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #05-12, Dec. 2005)

**14-204. Administration.** 1. Designation of ordinance administrator. The codes official is hereby appointed as the administrator to implement the provisions of this ordinance.

2. Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

a. Application stage. i. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFE's 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 BFE's 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 § 14-204(2).

iv. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

b. Construction stage. Within 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 mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-204(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 § 14-204(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 § 14-204(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 (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-204(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. (as added by Ord. #05-12, Dec. 2005)

**14-205. 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 non-conformity 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 (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-205(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 (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-204(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 (1) foot 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 (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-204(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 § 14-204(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.

(1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(2) The bottom of all openings shall be no higher than one foot above the finish grade; and

(3) 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 § 14-205(2) of this ordinance.

d. Standards for manufactured homes and recreational vehicles.

i. All manufactured homes placed, or substantially improved, on:

- (1) Individual lots or parcels,
- (2) In expansions to existing manufactured home parks or subdivisions, or
- (3) 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:

- (1) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or,
- (2) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet 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 § 14-205(2)(d) of this ordinance.

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:

- (1) Be on the site for fewer than 180 consecutive days;
- (2) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.
- (3) 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 180 consecutive days.

vi. 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:

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) 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.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty lots and/or five 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 § 14-203(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 § 14-205.

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 § 14-203(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 (1) foot 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 § 14-205(2).

5. Standards for streams without established base flood elevations or floodways (A zones). Located within the areas of special flood hazard established in § 14-203, 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 § 14-203, 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 § 14-205. ONLY if data is not available from these sources, then the following provisions (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, 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 (1) foot 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 (3) feet 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 § 14-205(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 § 14-203(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 nonresidential buildings shall have the lowest floor, including basement, elevated to at least one (1') foot 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 (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-205(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 (1') foot 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 (3) feet 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 § 14-204(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 the 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 § 14-203 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 (A-99 zones) all provisions of §§ 14-204 and 14-205(1) shall apply.

8. Standards for unmapped streams. Located within Medina, 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 (1) foot 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 § 14-204. (as added by Ord. #05-12, Dec. 2005)

**14-206. Variance procedures.** The provisions of this section shall apply exclusively to areas of special flood hazard within Medina, Tennessee.

1. Board of zoning appeals. a. The Medina Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

b. Variances may be issued for the repair or rehabilitation of historic structures (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. #05-12, Dec. 2005)

CHAPTER 3

ZONING ORDINANCE

SECTION

14-301. Land use to be governed by zoning ordinance.

**14-301. Land use to be governed by zoning ordinance.** Land use within the City of Medina shall be governed by Ordinance Number 85-01, titled "The Zoning Ordinance of the City of Medina," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance #85-01, dated January 27, 1985, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

## TITLE 15

### MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. REGISTRATION.
3. SPEED LIMITS.
4. PARKING.
5. ENFORCEMENT.
6. RULES OF THE ROAD ADOPTED.
7. TRAFFIC CONTROL PHOTOGRAPHIC SYSTEMS.

#### CHAPTER 1

#### MISCELLANEOUS<sup>2</sup>

#### SECTION

- 15-101. Vehicles to be licensed.  
 15-102. Traffic on College Street.  
 15-103. Compliance with financial responsibility law required.

**15-101. Vehicles to be licensed.** It shall be unlawful for any person to operate any type of motor vehicle, including but not limited to vehicles commonly referred to as 3-wheelers or 4-wheelers upon the streets of the City of Medina, if said vehicles are not licensed by the State of Tennessee.

Any person found guilty of violating this section shall be subject to a fine of no less than ten dollars (\$10.00), and no more than twenty-five dollars (\$25.00). (Ord. #86-01, April 1986)

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

<sup>2</sup>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, § 55-50-504; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

**15-102. Traffic on College Street.** 1. No through traffic shall be allowed on College Street in the City of Medina from 8:00 o'clock A.M. to 3:00 o'clock P.M., from Monday through Friday.

2. Anyone found guilty under this section shall be fined \$15.00. (Ord. #\_\_\_, Sept. 1977)

**15-103. 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 of title 15 of the Medina 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, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued.

b. A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

c. The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

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 a civil penalty of up to fifty dollars (\$50). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or the city's municipal code of ordinances.

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. (Ord. #02-06, April 2002)

## CHAPTER 2

### REGISTRATION<sup>1</sup>

#### SECTION

15-201. Registration required.

15-202. Violations and penalty.

15-203.--15-204. Deleted.

**15-201. Registration required.** The County Clerk of Gibson County, Tennessee, will collect for the City of Medina, Tennessee, a fee of fifteen dollars (\$15.00) from every person, firm or corporation living in or having a place of business in Medina, Tennessee and having motor vehicles using the city streets, with the following exceptions:

- Ex-prisoner of war or surviving spouse, no more than two (2) free.
  - Congressional medal of honor, no more than two (2) free.
  - Legion of valor, no more than two (2) free.
  - Disabled veteran permanently confined to a wheel chair, no more than two (2) free.
  - Disabled purple heart combat wounded, permanently disable no more than two (2) free.
  - Disabled driver permanently confined to a wheel chair, no more than two (2) free.
  - Government owned vehicles.
  - Dealer plates.
  - Temporary registrations.
  - Air medal valor (perm) (1st plate).
  - Air Force cross (1st plate).
  - Bronze star valor (1st plate).
  - Distinguished service cross (1st plate).
  - Distinguished flying cross.
  - Navy cross (1st plate).
  - Silver star (1st plate).
  - Gold star family (perm).
- (OTHERS MAY APPLY)

(1) The city registration shall expire at the same time as the motor vehicles' state license plate and the county clerk will collect the fee upon every vehicle at the time as the state license plate for the motor vehicle is purchased.

(2) When a registrant is late and/or owes more than one (1) year state/county fees, the registrant will owe like years of city sticker fees.

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<sup>1</sup>Municipal code reference

Junked vehicles: title 13, chapter 3.

(3) In the normal course of notification by Gibson County, people living in Medina and purchasing the state license plates in another county will be notified they are in violation and given notice that the fee is due. If fee is not paid then the clerk's office will notify the Medina City Government, who will cite the person or persons to court for collection.

(4) The Gibson County Clerk shall retain five percent (5%) plus one dollar (\$1.00) from each fee collected for collecting fees. The clerk will remit to the City of Medina by the 10th of each month, less the collection fee of five percent (5%) plus one dollar (\$1.00) for each fee collected. In addition, the clerk will furnish the City of Medina with a printout or such other documentation as the clerk may maintain showing the number of sales and the names of the persons, firms or corporations who have registered vehicles.

(5) The county clerk's office will not be responsible for mail in applications not including Medina fee with registrations. The clerk's office will identify these in the monthly report to the City of Medina for the city to collect.

(6) In the normal course of notification by Gibson County, people living in Medina and purchasing the state license plates in another county will be notified they are in violation and given notice that the fee is due. If the fee is not paid then the clerk's office will notify the City of Medina, who will cite the person or persons to court for collection. (Ord. #02-04, March 2002, as replaced by Ord. #05-09, Dec. 2005, Ord. #16-01, April 2016, and Ord. #18-06, Oct. 2018 ***Ch7\_06-06-22***)

**15-202. Violations and penalty.** A violation of any provision of this chapter shall subject the offender to a penalty of up to fifty dollars (\$50.00) for each offense. (Ord. #02-04, March 2002, as replaced by Ord. #05-09, Dec. 2005, Ord. #16-01, April 2016, and Ord. #18-06, Oct. 2018 ***Ch7\_06-06-22***)

**15-203.–15-204. Deleted.** (Ord. #02-04, March 2002, as replaced by Ord. #05-09, Dec. 2005, and Ord. #16-01, April 2016, and deleted by Ord. #18-06, Oct. 2018 ***Ch7\_06-06-22***)

**CHAPTER 3**

**SPEED LIMITS**

**SECTION**

15-301. In general.

**15-301. In general.** It shall be unlawful for any person to operate any motorized vehicle in excess of the posted speeds within the corporate limits of the City of Medina, Tennessee.

Anyone found guilty of violation of this section shall be punishable by a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00), for each such offense. (Ord. #93-06, \_\_\_)

## CHAPTER 4

### PARKING

#### SECTION

15-401. Prohibited parking.

15-402. Responsibility of owner for parking.

15-403. Towing of illegal parked vehicle, conveyance, boat, all-terrain vehicle, or moving pod.

**15-401. Prohibited parking.** (1) No person shall park any vehicle, conveyance, boat, all-terrain vehicle, or moving pod on the municipal streets in the residentially-zoned areas of the City of Medina, as indicated in the city zoning map, which is available in the city recorder's office.

(2) **Exceptions.** The provisions of § 15-401(1) shall not apply to vehicles, conveyances, or moving pods parked on municipal streets for the purpose of loading or unloading activities associated with moving or delivering household furniture, appliances, equipment, and similar objects, provided that such parking does not exceed twenty-four (24) hours.

(3) **Violation.** The willful violation of this section shall result in a fine of twenty dollars (\$20.00) for each offense. (Ord. #01-08, Dec. 2001, as replaced by Ord. #09-10, Oct. 2009, Ord. #10-02, March 2010, and Ord. #14-07, Nov. 2014)

**15-402. Responsibility of owner for parking.** If any vehicle, conveyance, boat, all-terrain vehicle, or moving pod is found upon a street in violation of any provision of this chapter and the identity of the operator cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation. (Ord. #01-08, Dec. 2001, as replaced by Ord. #14-07, Nov. 2014)

**15-403. Towing of illegally parked vehicle, conveyance, boat, all-terrain vehicle, or moving pod.** If a vehicle, conveyance, boat, all-terrain vehicle, or moving pod remains illegally parked pursuant to § 15-401 for longer than forty-eight (48) hours following the ticketing of said vehicle pursuant to this chapter or a warning by the officer that such vehicle is illegally parked pursuant to this chapter, an officer of the City of Medina is authorized to arrange for the towing of said vehicle, conveyance, boat, all-terrain vehicle, or moving pod. At the time of the ticketing or warning by the officer, a notification will be placed on said vehicle, conveyance, boat, all-terrain vehicle, or moving pod and/or provided to the residence where the vehicle, conveyance, boat, all-terrain vehicle, or moving pod is illegally parked that the owner of the vehicle, conveyance, boat, all-terrain vehicle, or moving pod will have forty-eight (48) hours to remove the same or same will be towed at the owner or renter of

the vehicle, conveyance, boat, all-terrain vehicle, or moving pod's expense. At the time the vehicle, conveyance, boat, all-terrain vehicle, or moving pod is towed, the officer will provide express written authorization to a garage keeper pursuant to Tennessee Code Annotated, § 55-16-122 and said authorization shall include all of the information required by § 66-19-103(d), which provides:

"(d)(1) Any authorization made by a police department to tow a vehicle shall be made in writing. Such authorization shall include:

(A) The name of the officer giving authorization;

(B) The year, make and model, and color of the vehicle to be towed;

(C) The reason for the tow;

(D) The license plate number, if any; and

(E) The vehicle identification number, if it is ascertainable.

(2) A copy of such authorization shall be posted with the vehicle by the officer giving authorization, and shall remain with the vehicle until the vehicle is claimed by the owner." (as added by Ord. #14-07, Nov. 2014)

## CHAPTER 5

### ENFORCEMENT

#### SECTION

15-501. Deposit of driver's license in lieu of bail.

15-502. Storage of disabled motor vehicles restricted.

15-503. Disposal of abandoned motor vehicles.

**15-501. Deposit of driver's license in lieu of bail.** 1. Deposit allowed. Whenever any person lawfully possessing an operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, within the City of Medina, such person shall have the option of depositing his operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the City Court of Medina, Tennessee in answer to such charge before said court.

2. Receipt to be issued. Upon the deposit of said license in lieu of bond, a receipt shall be given to the person so charged for said drivers license, which receipt shall be valid as a temporary driving permit until the trial is concluded, all in compliance with Tennessee Code Annotated, § 55-50-802. (Ord. #92-01, Dec. 1992)

**15-502. Storage of disabled motor vehicles restricted.**<sup>1</sup> No person shall permit any disabled motor vehicle to be parked, stored, placed, or allowed to remain within the city in violation of the provisions of the ordinances of the city. A disabled motor vehicle shall mean any vehicle which is incapable of being self-propelled upon the public streets, or which does not meet the requirements for operation upon the public streets, including a current license.

Disabled motor vehicles shall not be permitted in the right-of-way of the streets, alleys, or highways within the city; provided, however, that this shall not apply to towing or similar transporting of such vehicles; and provided further that a reasonable time (not to exceed twenty-four (24) hours from the time of disability) shall be permitted for the removal or servicing of a disabled vehicle in an emergency caused by accident or sudden breakdown of the vehicle.

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<sup>1</sup>Municipal code reference

Junked vehicles: title 13, chapter 3.

One disabled motor vehicle may be permitted in a side yard of a residential, commercial, or industrial lot as an accessory use to the main use of the lot; provided, that such vehicle is not located in any open space required by the zoning laws. Service and repair work may be performed on such vehicle and, incidental thereto, parts, tools, and equipment may be stored and used. Nothing contained herein shall be construed as authorizing the disassembling, teardown, or scrapping of a motor vehicle, or to permit one motor vehicle to be salvaged, scavenged, or stripped for parts for use on another motor vehicle. Provided, however, that a disabled vehicle shall not be permitted to remain outside of a building for a period in excess of thirty (30) days on any lot used for residential purposes or on that portion of any lot within twenty (20) feet of an abutting lot used for residential purposes. Provided further that this section shall not apply to licensed garages and repair shops.

Any policemen of the City of Medina will report to the mayor any violation of the provisions of this section and, after inspection by a member of the police department, the mayor will notify the property owner or person responsible for the property to remedy the condition within ten (10) days. Should the condition not be remedied within the time specified in such notice, the mayor shall cause the condition to be remedied at the expense of the City of Medina and the cost thereof shall become a lien upon both the real property and the disabled motor vehicle, the lien to be satisfied as any other delinquent tax lien. Further, as an alternative for enforcing this section, if the conditions should not be remedied within the time specified in such notice, the mayor shall have the power to have the disabled motor vehicle, and accessories thereto, taken away by the city and, after advertising the same for sale by one notice in the local newspaper, shall proceed to sell the same at either a public or private sale, and the city shall retain the proceeds from such sale. (Ord. #1997-7, \_\_)

**15-503. Disposal of abandoned motor vehicles.** "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (Ord. #1997-6, \_\_)

**CHAPTER 6**

**RULES OF THE ROAD ADOPTED**

**SECTION**

15-601. Adoption of state traffic statutes and regulations.

**15-601. Adoption of state traffic statutes and regulations.** All violations of state regulations for the operation of vehicles committed within the corporate limits of the municipality and which are defined by state law are hereby designated and declared to be offenses against the City of Medina also. This provision shall not apply to any offenses in which the state courts have exclusive jurisdiction. (as added by Ord. #04-03, Feb. 2004)

## CHAPTER 7

### TRAFFIC CONTROL PHOTOGRAPHIC SYSTEMS

#### SECTION

15-701. Definitions.

15-702. Administration.

15-703. Offense.

15-704. Procedure.

15-705. Penalty.

**15-701. Definitions.** The following words, terms and phrases, when used herein, shall have ascribed to them the following meanings, except where the context clearly indicates a different meaning.

(1) "Citations and warning notices" shall mean the documents of notice of violation and shall include:

- (a) The name and address of the registered owner of the vehicle;
- (b) The registration plate number of the motor vehicle involved in the violation;
- (c) The violation charged;
- (d) The location of the violation;
- (e) The date and time of the violation;
- (f) A copy of the recorded image;
- (g) The amount of the civil penalty imposed and the date by which the civil penalty should be paid;
- (h) A sworn statement signed by an officer or contractor of the Medina Police Department that based on inspection, the subject motor vehicle was being operated in violation of the applicable enumerated section(s) of the Medina City Code; and

(I) Information advising the person alleged to be liable for violations of the enumerated section(s) of the Medina City Code of the manner and time in which the liability alleged in the citation may be contested in city court, and warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(2) "Recorded images" means images recorded by a traffic control photographic system:

- (a) On a photograph, microphotograph, electronic image, videotape, or any other medium; and
- (b) At least one (1) image or portion of tape, clearly identifying the registration plate number, or other identifying designation of the license plate, on the motor vehicle.

(3) "System location" is on the roadway, or the approach to on intersection toward which a traffic control photographic system device, including

but not limited to a photographic video, or electronic camera, is directed and is in operation.

(4) "Traffic control photographic system" is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work on a roadway for speed enforcement, or in conjunction with an official traffic control sign, signal or device, and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal or device.

(5) "Vehicle owner" is the person identified on records maintained by the State of Tennessee and other states, departments of safety, as registered owner of a motor vehicle. (as added by Ord. #10-01, Jan. 2010)

**15-702. Administration.** (1) The Medina Police Department shall administer the traffic control photographic and video system and shall maintain a list of all system locations where traffic control photographic systems are installed. The city may contract with third parties to perform administrative and clerical functions.

(2) No third party contractor shall have the authority to issue citations and no citations shall issue except upon review of the photograph(s), digital and/or video images by the Medina Police Department. Upon review of such images by the Medina Police Department, on each case, and upon express approval for the issuance of a citation by the Medina Police Department, a third party contractor may perform the ministerial functions of preparing, mailing, serving and/or processing citations.

(3) Signs to indicate the use of the traffic control photographic and video system may be clearly posted in the discretion of the Medina Police Department.

(4) All fines paid and/or collected shall be paid to the City of Medina.

(5) The City of Medina shall have all necessary power and authority to contractually provide for the purchase, lease, rental, acquisition and/or to enter a service contract(s) so as to fully and necessarily implement the provisions of the traffic control photographic system authorized hereby. (as added by Ord. #10-01, Jan. 2010)

**15-703. Offense.** (1) It shall be unlawful for any vehicle to travel through a system location at a rate of speed in excess of that rate of speed established or posted for any such system location(s).

(2) It shall be unlawful for a vehicle to cross the stop line at a system location, in disregard or disobedience of the traffic control sign, signal or device at such location, or to otherwise violate any section of the Medina City Code with respect to obedience to traffic lights, stop signs or traffic signals. (as added by Ord. #10-01, Jan. 2010)

**15-704. Procedure.** (1) The city shall adopt procedures for the issuance of uniform citations and, if deemed appropriate, warning notices hereunder. Such system may include the use of third party contractors to perform ministerial tasks.

(2) A citation or warning notice so issued, alleging an offense hereunder in violation of said ordinance of the Medina City Code, which is sworn to or affirmed by an official of the Medina Police Department based on inspection of recorded images produced by the traffic control photographic system, and which includes copies of such recorded images, shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation hereunder. The citation or warning notice shall be forwarded by first-class mail, postmarked not later than thirty (30) days after the date of the alleged violation, to the vehicle owner's address as given on the motor vehicle registration records maintained by the State of Tennessee Departments of Safety and other states motor vehicle registration departments. Personal delivery to or personal service of process on the owner of the vehicle will not be required.

(3) A person who receives a citation or warning notice may:

(a) Pay the assessed fine and civil penalty, in accordance with instructions on the citation or warning notice, directly to the city court clerk; or

(b) Elect to contest the citation for the alleged violation.

(4) Liability hereunder shall be determined based upon preponderance of the evidence. Admission into evidence of a citation or warning notice, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

(a) Testifies under oath in open court that he or she was not the operator of the vehicle at the time of the alleged violation; and

(b) Submits to the court prior to the return date established on the citation and warning notice the owner's sworn notarized statement that the vehicle was in the care, custody or control of another person or entity at the time of the violation and accurately identifying the name and accurately stating the current address and relationship to or affiliation with the owner, of the person or entity who leased, rented or otherwise had such possession of the vehicle at the time of the alleged violation; or

(c) Presents to the court prior to the return date established on the citation and warning notice a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation. (as added by Ord. #10-01, Jan. 2010)

**15-705. Penalty.** (1) Any offense hereunder shall be deemed a non-criminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed. Failure to pay the civil penalty or appear in court to contest the citation or warning notice on the designated date, shall result in the imposition of the stated fine by default and assessment of court costs as otherwise provided for by ordinance for citations to the City Court of Medina, Tennessee. The city may establish procedures for the trial of civil violators and may enforce and collect all penalties in the nature of a debt as otherwise provided by law.

(2) All revenues generated from penalties and assessments associated with the enforcement of this chapter shall go into the general fund, provided however that the city recorder shall be expressly authorized to pay such administration costs as are necessarily incurred and by contract authorized in order to implement and administer this system(s) hereby authorized.

(3) A violation for which a civil penalty is imposed hereunder shall not be considered a moving violation and may not be recorded by the division of police services or the Tennessee Department of Safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage.

(4) All recorded images generated by the traffic control photographic system, including, but not limited to photographs, electronic images, and videotape, shall be solely owned by the City of Medina. (as added by Ord. #10-01, Jan. 2010)

**TITLE 16**

**STREETS AND SIDEWALKS, ETC**

**[RESERVED FOR FUTURE USE]**

## TITLE 17

### REFUSE AND TRASH DISPOSAL<sup>1</sup>

#### CHAPTER

#### 1. REFUSE.

#### CHAPTER 1

#### REFUSE

#### SECTION

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. Storage of refuse.
- 17-104. Confiscation of unsatisfactory storage containers.
- 17-105. Limits of responsibility of refuse collector.
- 17-106. Dumping in streams, sewers, and drains prohibited.
- 17-107. Burning refuse.
- 17-108. Disturbing containers.
- 17-109. Exclusive city function.
- 17-110. Billing of service fee.
- 17-111. Use of dumpsters.

**17-101. Definitions.** (1) "Ashes." The term "ashes" shall include the waste products from coal, wood, and other fuels, used for cooking, heating, and on-site incinerations from all public and private residences and establishments.

(2) "Collector." The term "collector" shall mean any person, firm, corporation, or political subdivision, that collects, transports, or disposes of any refuse within the corporate limits.

(3) "Dumpster." The term "dumpster" means a bulk storage container for refuse that can be hauled directly to the point of disposal or emptied into a large compactor-type truck for disposal.

(4) "Garbage." The term "garbage" shall include all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products from all public and private residences and establishments.

(5) "Health officer." The term "health officer" shall mean the health authority of the city or his authorized representative or authorized representative of the state health department.

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

Trash, debris, etc., on property: § 13-103.

(6) "Refuse." The term "refuse," as hereinafter referred to in this chapter shall include garbage, rubbish, ashes, and all other putrescible and non-putrescible, combustible and non-combustible material originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling and sale of produce, and other similar unwanted materials, but shall not include sewage, body waste, or recognizable industrial by-products from all residences and establishments public and private.

(7) "Rubbish." The term "rubbish" shall include all non-putrescible waste materials except ashes from all public and private residences and establishments. (Ord. #00-04, May 2000, as replaced by Ord. #07-08, Sept. 2007)

**17-102. Premises to be kept clean.** All persons, firms, and corporations within the corporate limits are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, offal, filth, and trash. Such persons, firms, and corporations are hereby required to store such refuse in sanitary containers of the type described in this chapter between intervals of collection or to dispose of such material in a manner prescribed by the health officer so as not to cause a nuisance or become injurious to the public health and welfare. (as added by Ord. #07-08, Sept. 2007)

**17-103. Storage of refuse.** Each owner, occupant, tenant, sub-tenant, lessee, or others using or occupying any building, house, structure, or grounds within the corporate limits where refuse materials or substances as defined in this chapter accumulate or are likely to accumulate shall provide an adequate number of suitable containers of a type approved by the health officer for the storage of such refuse. Such containers shall be constructed of strong and durable metal, not readily corrodible, rodent and insect-proof, and of a capacity not exceeding thirty-two (32) gallons and not less than ten (10) gallons, except that the maximum capacity shall not apply in cases where the city is equipped to handle containers of similar construction mechanically. Such containers shall be equipped with handles to facilitate emptying, and they shall be equipped with tight fitting lids or covers, constructed of the same material of such design as to preclude the free access of flies and other insects and to prevent the container from collecting water during rains. The lid or cover shall be kept in place at all times except when refuse is being deposited therein or removed therefrom by an official collector. Such storage containers should be placed in a convenient accessible location. for trucking as may be designated by the official refuse collecting agency. Wet garbage or refuse must be drained of all liquids and wrapped in paper or other equivalent material prior to placing it into the storage receptacle. The containers shall be maintained in a clean and sanitary manner and shall be thoroughly cleaned by washing or other methods as often as necessary to prevent the breeding of flies and the occurrence of offensive odors. (as added by Ord. #07-08, Sept. 2007)

**17-104. Confiscation of unsatisfactory storage containers.** The official refuse collecting agency is herein authorized to confiscate or to remove unsatisfactory storage containers from the premises of residences and establishments, public and private, when at the discretion of the health officer such containers are not suitable for the healthful and sanitary storage of refuse substances. Such unsatisfactory containers shall be removed and disposed of at a place and in a manner designated by the official collecting agency only after the owner of such containers has been duly notified of such impending action. (as added by Ord. #07-08, Sept. 2007)

**17-105. Limits of responsibility of refuse collector.** In no case will it be the responsibility of the refuse collecting agency to shovel or pick up from the ground any accumulations of refuse including leaves, lawn clippings, brush, and packing material. All materials are to be placed in containers of the type described in § 17-103 or cut and baled, tied, bundled, stacked, or packaged so as not to exceed thirty-six inches (36") in length and fifty (50) pounds in weight. (as added by Ord. #07-08, Sept. 2007)

**17-106. Dumping in streams, sewers, and drains prohibited.** It shall be unlawful for any person, firm, or corporation to dump refuse in any form into any stream, ditch, storm sewer, sanitary sewer, or other drains within the city. (as added by Ord. #07-08, Sept. 2007)

**17-107. Burning refuse.** It shall be unlawful for any person, firm, or corporation to burn or attempt to burn refuse on private or public property within the corporate limits of the city without first securing the approval of the appropriate city departments having jurisdiction. (as added by Ord. #07-08, Sept. 2007)

**17-108. 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 anti-litter cans for the deposit of refuse commonly recognized as litter. (as added by Ord. #07-08, Sept. 2007)

**17-109. Exclusive city function.** Except as otherwise herein provided, only the City of Medina, or its officially authorized agents or contractors, shall engage in the business of collection, removing, or disposing of refuse within the corporate limits. The city may provide such services either with its own forces or by contractors. (as added by Ord. #07-08, Sept. 2007)

**17-110. Billing of service fee.** The service fee for collection, removal, and disposal of refuse shall be included as a separate item each month on the bills rendered for water service. Said charges shall be rendered on the first

water bill for each month thereafter. The accounts shall be paid monthly at the same time water bills are paid. In the case of premises containing more than one (1) dwelling unit or place of business each of which is billed separately for water by Jackson Energy Authority, such fees shall be billed to each person in possession charge, or control who is a water customer in the City of Medina. In the case of premises containing more than one (1) dwelling unit or place of business which are served through a single water meter, so that the occupants or tenants cannot be billed separately by Jackson Energy Authority, the customer responsible for the water bill shall be liable for refuse service fees for the premises. (as added by Ord. #07-08, Sept. 2007)

**17-111. Use of dumpsters.** Dumpsters are for commercial use only. Dumpsters are paid for by business owners and are under contract between business owners and solid waste disposal contractor. No individual except the business owner may deposit only such materials that are generated by the business. No person shall be authorized or allowed to deposit ashes, animal offal, carcasses of dead animals, industrial byproducts, sewage, body waste, or building or construction debris in a dumpster. No person shall be authorized or allowed to deposit any large, bulky, or heavy wooden or metal object in a dumpster. No person shall be authorized or allowed to deposit any material in a dumpster, unless the material can be completely contained within the dumpster and no materials shall be placed on top of or in the area surrounding the dumpster. (as added by Ord. #07-08, Sept. 2007)

**TITLE 18**

**WATER AND SEWERS<sup>1</sup>**

**[RESERVED FOR FUTURE USE]**

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<sup>1</sup>Water and wastewater utility service is provided by the Jackson Energy Authority. See Ord. #01-07, Nov. 2001, in the office of the recorder.

**TITLE 19**

**ELECTRICITY AND GAS**

**[RESERVED FOR FUTURE USE]**

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

1. TITLE VI POLICY AND STATEMENT.
2. PARK HOURS.

**CHAPTER 1**

**TITLE VI POLICY AND STATEMENT**

**SECTION**

20-101. Policy and statement.

**20-101. Policy and statement.** Title VI Policy and Statement shall be adopted for the City of Medina stating "The City of Medina does not discriminate based on race, color, sex or national origin in federal or state sponsored programs, pursuant to Title VI of the Civil Rights Act of 1964."

This policy shall be made a part of each employee's personnel file and updated yearly. (as added by Ord. #03-06, Nov. 2003)

## CHAPTER 2

### PARK HOURS

#### SECTION

20-201. Purpose.

20-202. Definition.

20-203. Times of usage.

20-204. Signage.

**20-201. Purpose.** The purpose of this chapter is to establish times for citizens to use park lands of the City of Medina and to promote the general welfare and provide for the peace in the community. (as added by Ord. #09-11, Oct. 2009)

**20-202. Definition.** Park lands consist of all land and appurtenances thereon which are owned, leased, rented, or in any manner controlled by the City of Medina and which are dedicated for recreational use. (as added by Ord. #09-11, Oct. 2009)

**20-203. Times of usage.** It shall be unlawful for any person to be in any Medina city park except during the following times:

Sunday	5:00 A.M. until 10:00 P.M.
Monday	5:00 A.M. until 10:00 P.M.
Tuesday	5:00 A.M. until 10:00 P.M.
Wednesday	5:00 A.M. until 10:00 P.M.
Thursday	5:00 A.M. until 10:00 P.M.
Friday	5:00 A.M. until 11 :00 P.M.
Saturday	5:00 A.M. until 11 :00 P.M.

(as added by Ord. #09-11, Oct. 2009)

**20-204. Signage.** The Medina Park Superintendent shall install at the entrances to every city park appropriate signage indicating the hours in which public use is permitted. (as added by Ord. #09-11, Oct. 2009)

*Steve / Sandy*

ORD. 1

**ORDINANCE NO. 03-03**

**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF MEDINA, TENNESSEE.**

WHEREAS some of the ordinances of the City of Medina are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Medina, 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 "Medina Municipal Code," now, therefore:

**BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF MEDINA, TENNESSEE, THAT:**

**Section 1. Ordinances codified.** The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Medina Municipal Code," hereinafter referred to as the "municipal code."

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or

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resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

**Section 4. Continuation of existing provisions.** Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

## ORD 8

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

**Section 6. Severability clause.** Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

**Section 7. Reproduction and amendment of code.** The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately 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.

ORD 4

**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, 9-2, 2003

Passed 2nd reading, 10-6-03, 2003.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder