

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. ENTERTAINMENT AND RECREATIONAL BUSINESS.
3. JEWELRY SALES.
4. GARAGE SALES.
5. ADULT-ORIENTED ESTABLISHMENTS.
6. CABLE TELEVISION.
7. TAXICABS.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.

9-101. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the city, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501(5).

street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Bradley County for a period of two (2) years prior to the date of its application for registration under this chapter.

(4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the city, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise"

¹State law reference

Tennessee Code Annotated, § 62-30-101 et seq. contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from Tennessee Code Annotated, § 62-30-101(3). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, § 67-4-709(b).

means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

9-102. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold.

9-103. Permit required. No person, firm, association, community or school group or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. Community groups and school groups may obtain a single permit for the group. (1981 Code, § 12-21, modified)

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the city clerk by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

(b) A brief description of the type of business and the goods to be sold.

(c) The dates for which the applicant intends to do business or make solicitations.

(d) The names and permanent addresses of each person who will make sales or solicitations within the city.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the

person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

(f) Tennessee State sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the clerk shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city clerk, the city clerk shall submit to the chief of police a copy of the application form and the permit. (1981 Code, § 12-23, modified)

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the city.

(2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.

(4) Unless approved by the adjacent business owner, call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (1981 Code, § 12-21, modified)

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit or copy if he/she represents a community group, school group soliciting for charitable or religious purpose while making sales or solicitations, and shall be required to display the same upon demand. (1981 Code, § 12-29, modified)

9-108. Suspension or revocation of permit. (1) Suspension by the clerk. The permit issued to any person or organization under this chapter may be suspended by the city clerk for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the city manager. The permit issued to any person or organization under this chapter may be immediately suspended by the city manager and may be revoked by the city manager, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city clerk in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1981 Code, § 12-33, modified)

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The permit of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1981 Code, § 12-35, modified)

CHAPTER 2

ENTERTAINMENT AND RECREATIONAL BUSINESS

SECTION

9-201. Circuses, carnivals, etc., not to exhibit within city; exceptions, requirements.

9-202. [Deleted.]

9-203. [Deleted.]

9-201. Circuses, carnivals, etc., not to exhibit within city; exceptions, requirements. It shall be unlawful for any person to exhibit or offer to exhibit in the city limits any aggregation of entertainment known as shows, carnivals, or circuses except that a circus or carnival sponsored by local civic or charitable organization may be permitted provided that:

(1) The site for the circus or carnival shall first be approved by a committee composed of the city attorney, building inspector, city clerk, fire inspector, traffic engineer and chief of police.

(2) A corporate bond in the amount of five thousand dollars (\$5,000.00) shall be posted with the city clerk to insure a cleanup of the public premises and for any damages to public property.

(3) The location shall not be in an area zoned for residential area.

(4) A proper business license must be obtained.

(5) Proof of liability insurance be provided to the city clerk in the amount of one million dollars (\$1,000,000.00).

(6) The length of stay shall be limited to ten (10) days.

(7) Any approved site must have adequate off-street parking.

(8) The sponsor or the organization conducting the carnival or circus must employ a sufficient number of qualified people to handle traffic before, during and after the show. (1981 Code, § 12-41, modified)

9-202. [Deleted.] (1981 Code, § 12-42, as deleted by Ord. of 12/9/02)

9-203. [Deleted.] (1981 Code, § 12-43, as deleted by Ord of 12/9/02)

CHAPTER 3

JEWELRY SALES

SECTION

9-301. Register required.

9-302. Holding period for articles.

9-303. Daily reports required; notification of location.

9-301. Register required. It shall be the duty of all persons dealing in the purchase, sale or exchange of secondhand or antique jewelry, watches, diamonds or other precious stones, cutlery, old gold, silver, platinum or other precious metals, or any other secondhand manufactured articles, composed wholly or in part of gold, silver, platinum or other precious metals, to keep a book in which every article received by them in the course of their business shall be registered, and in which shall be given as minute a description of every article as is possible, including the maker's name and number of every article so received by them. The name, age, sex, color, residence, driver's license number, and general description of each and every individual selling or exchanging such articles, shall be taken and entered in the register. The register shall at all times be kept at the place of business of every person engaging in the business aforesaid. Members of the police department shall be allowed free access to the register and the person shall give to such officers all information in his possession concerning such articles and all persons selling or exchanging the same. (1981 Code, § 12-141)

9-302. Holding period for articles. All persons engaging in business as described herein shall retain any article received in the same state or condition in which it was received, and shall not co-mingle it with other articles separately received, and shall make it available for examination by members of the police department, for a period of three (3) days before a resale or exchange, unless written permission is obtained from the chief of police. (1981 Code, § 12-142)

9-303. Daily reports required; notification of location. All persons engaging in business as described herein shall furnish to the chief of police daily reports at his office, showing fully the name, age, sex, color, residence, driver's license number, and general description of each person who shall have sold or exchanged any article during the preceding day, together with a full description of the articles sold or exchanged by such person, including the number of each article bearing a number, and the day and hour of the transaction. Every person engaging in such business shall keep duplicates of such reports in a well-bound book or register, which book or register shall at all times be subject to the inspection of members of the police department. Any person intending to engage

in business as described herein who will not operate that business at an established and permanent location shall give the chief of police at least seventy-two (72) hours' prior notice of the location and date and hours of the operation of such business. (1981 Code, § 12-143)

CHAPTER 4

GARAGE SALES

SECTION

- 9-401. Definitions.
- 9-402. Dates of sales.
- 9-403. Hours of operation.
- 9-404. Display of sale property.
- 9-405. Advertising.
- 9-406. Enforcement; violations.
- 9-407. Persons exempted from chapter.
- 9-408. [Deleted.]
- 9-409. [Deleted.]
- 9-410. [Deleted.]
- 9-411. [Deleted.]

9-401. Definitions. For the purpose of this chapter, the following terms, are defined and shall be construed as follows:

(1) "Garage sales" shall be the offering for sale or exchange, or the sale or exchange, to the public of any personal property of any kind or description at a sale held on privately-owned residential property. For the purposes of this chapter, garage sales include all sales of personal property, whether entitled "garage sales," "lawn sales," "yard sales," "attic sales," "porch sales," "room sales," "backyard sales," "patio sales," "flea market" or "rummage sales." This definition does not include the operation of business carried on in a non-residential zone where the person conducting the sale does so on a regular day-to-day business and has a business license to do so.

(2) "Residential property" is any real estate, lot or tract in the City of Cleveland which is used primarily for residential purposes.

(3) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in a normal course of living or in maintaining a residence. (as replaced by Ord. #2005-16, April 2005)

9-402. Date of sales. Garage sales are only allowed on Fridays, Saturdays, Sundays and city holidays. As used in this section, city holidays include the following holidays:

New Year's Day; Martin Luther King, Jr's birthday; President's Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day; and Christmas Day. (as replaced by Ord. #2005-16, April 2005)

9-403. Hours of operation. Garage sales shall be conducted between the hours of 8:00 A.M. and 6:00 P.M. (as replaced by Ord. #2005-16, April 2005)

9-404. Display of sale property. Personal property offered for sale may be displayed outdoors after 5:00 P.M. on the day before any garage sale will be lawfully held. All personal property shall be removed from outdoor display by no later than 8:00 P.M. on the date that a garage sale is held. Personal property offered for sale may only be displayed within a residence, in a garage, a carport, a driveway, or in a front, side or rear yard. No personal property offered for sale at a garage sale shall be displayed in or on any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. However, an unlicensed and inoperable vehicle as defined in title 13 of this Cleveland Municipal Code may not be displayed for more than 30 calendar days in a twelve-month period. (as replaced by Ord. #2005-16, April 2005)

9-405. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a garage sale:

(a) Two signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or residential site where the garage sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the garage sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owner(s) on whose property such signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the date a garage sale is to commence.

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (as replaced by Ord. #2005-16, April 2005)

9-406. Enforcement; violations. It shall be unlawful for any person, firm, partnership, corporation or association to advertise, promote, conduct or hold any garage sale within the corporate limits of the City of Cleveland except as provided in this chapter. If any person, firm, partnership, corporation or association violates any of the provisions of this chapter, they will be subject to having the garage sale terminated immediately by any officer of the Cleveland Police Department or any Code Enforcement Officer of the City of Cleveland. In addition, a person, firm, partnership, corporation or association who violates any provision of this chapter is subject to a citation punishable by civil penalty of up to \$50 per day for each day that a violation occurs, plus applicable court costs and litigation taxes. In addition, the Cleveland Police Department is hereby given the power to immediately terminate any garage sale if the garage

sale is impeding traffic flow or causing a traffic hazard on any road or street within the City of Cleveland. (as replaced by Ord. #2005-16, April 2005)

9-407. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

(1) A person selling goods pursuant to an order of process of a court of competent jurisdiction.

(2) Court-ordered sales by executors or administrators in the settlement of estates.

(3) Sales of personal property which are:

(a) Advertized by newspaper or radio for private appointment only; and

(b) Not advertized by a sign or signs either on or off the premises; and

(c) Such that the property is not exhibited on the premises in such a manner as to indicate a public sale.

(4) All businesses and all business establishments which are properly licensed to conduct retail or wholesale sales.

(5) Any sale conducted by any merchant or any other business establishment on a regular, day-to-day basis from or at a place of business wherein such sale is permitted by zoning regulations of the City of Cleveland, or under the protection of any non-conforming use section thereof.

(6) Any other sale conducted by a manufacturer, dealer or vendor when such sale is conducted from a properly zoned premises, and when such sale is not otherwise prohibited by other ordinances of the city or any other provision of the Cleveland Municipal Code. (as replaced by Ord. #2005-16, April 2005)

CHAPTER 5

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-501. Findings and purpose.
- 9-502. Definitions.
- 9-503. License required.
- 9-504. Application for license.
- 9-505. Standards for issuance of license.
- 9-506. Permit required.
- 9-507. Application for permit.
- 9-508. Standards for issuance of permit.
- 9-509. Fees.
- 9-510. Display of license or permit.
- 9-511. Renewal of license or permit.
- 9-512. Revocation of license or permit.
- 9-513. Hours of operation.
- 9-514. Responsibilities of the operator.
- 9-515. Prohibitions and unlawful sexual acts.
- 9-516. Penalties and prosecution.
- 9-517. Invalidity of part.
- 9-518. Denial of applications or renewals.
- 9-519. Compliance with zoning laws.

9-501. Findings and purpose. (1) The City Council of the City of Cleveland, Tennessee finds:

(a) That homogeneous and heterogeneous masturbatory acts and other sexual acts, including oral sex acts, may be occurring in Cleveland in adult-oriented establishments in the City of Cleveland.

(b) That offering and providing such space, areas, and rooms where such activities may take place creates conditions that generate prostitution and other crimes.

(c) That the continued unregulated operation of adult-oriented establishments would be detrimental to the general welfare, health, and safety of the citizens of the City of Cleveland.

(2) It is the purpose of this chapter to promote and secure the general welfare, health, and safety of the citizens of the City of Cleveland. (Ord. of Feb. 1996)

9-502. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

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

(2) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, films, video cassettes, magazines, or other periodicals, or any print or electronic media which are distinguished or characterized by the emphasis on matter depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas,' as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment for observation by patrons therein.

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

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

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

(6) "City council" means the City Council of the City of Cleveland, Tennessee.

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

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

(9) "Adult entertainment" means any exhibition of any adult oriented motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical area removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

(11) "Specified sexual activities" means:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling or erotic touching of human genitals, pubic region,

buttock or female breasts.

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

- (i) Human genitals, pubic region;
- (ii) Buttocks;
- (iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely opaquely covered. (Ord. of Feb. 1996, as amended by Ord. #2003-28, Oct. 2003)

9-503. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Cleveland without first obtaining a license to operate issued by the City of Cleveland.

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

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

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

(5) All existing adult oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on third and final reading. If a license is not issued within said one-hundred-twenty-day period then such existing adult oriented establishment shall cease operations. (Ord. of Feb. 1996)

9-504. Application for license. (1) Any person, partnership or corporation desiring to secure a license shall make application to the city clerk. The application shall be filed in triplicate with and dated by the city clerk. A copy of the application shall be distributed promptly by the city clerk to the Cleveland Police Department and to the applicant.

(2) The application for a license shall be upon a form provided by the city clerk. An applicant for a license shall furnish the following information under oath:

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant previously operated in this or any other county, city or state under an adult oriented establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings no nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant.
- (j) The names and addresses of all persons, partnerships, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including, but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

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

(m) If the applicant is a corporation, the application shall specify the name, address and telephone number of the corporation, the date and state of incorporation, the name and address of the registered agent for service of process of the corporation, the names and addresses of the officers and directors of the corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and address of all general partners of the partnership; if the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership.

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

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

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

(4) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the city clerk. (Ord. of Feb. 1996, as replaced by Ord. #2003-28, Oct. 2003)

9-505. Standards for issuance of license. (1) To receive a license to operate an adult oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

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

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

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-504(2) shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-504(2) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No officer, director or stockholder required to be named under § 9-504(2) shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

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

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

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

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

(2) No license shall be issued unless the Cleveland Police Department has investigated the applicant's qualification to be licensed. The results of that investigation shall be filed in writing with the city clerk no later than twenty (20) days after the date of the application. (Ord. of Feb. 1996)

9-506. Permit required. In addition to the license requirement previously set forth for owners and operators of "adult oriented establishments," no person shall be an employee or entertainer in an adult oriented establishment without first obtaining a valid permit issued by the city clerk. (Ord. of Feb. 1996)

9-507. Application for permit. (1) Any person desiring to secure a permit shall make application to the city clerk. The application shall be filed in triplicate with and dated by the city clerk. A copy of the application shall be distributed promptly by the city clerk to the Cleveland Police Department and to the applicant.

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

BUSINESSES, TRADES AND OCCUPATIONS

- (a) Name and address, including all aliases.
 - (b) Written proof that the individual is at least eighteen (18) years of age.
 - (c) All residential addresses of the applicant for the past three (3) years.
 - (d) The applicant's height, weight, color of eyes and hair.
 - (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
 - (f) Whether the applicant, while previously operating in this or any other city or state under an adult oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name or where the applicant was employed or associated at the time of such suspension or revocation.
 - (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
 - (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
 - (i) The length of time the applicant has been a resident of the City of Cleveland, or its environs immediately preceding the date of the application.
 - (j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.
- (3) Within ten (10) days of receiving the results of the investigation conducted by the Cleveland Police Department, the city clerk shall notify the applicant that his application is granted, denied, or held for further

investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigations, the city clerk shall advise the applicant in writing within ten (10) days whether the application is granted or denied.

(4) [Deleted.]

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the city clerk. (Ord. of Feb. 1996, as amended by Ord. #2003-28, Oct. 2003)

9-508. Standards for issuance of permit. (1) To receive a permit as an employee, an applicant must meet the following standards:

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

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

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

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

(3) Whenever an application for a permit as an employee is denied, the applicant may within ten (10) days of receipt of notification of denial request a hearing before the city council, at which the applicant may present evidence bearing upon the question. This hearing shall be held by the city council at the next regularly scheduled meeting of the city council which occurs more than five (5) days after the request for a hearing has been filed. If the city council denies the applicant a permit as an employee, the city attorney shall within ten (10) days after the denial institute suit for declaratory judgment in state court for review of the denial. (Ord. of Feb. 1996)

9-509. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (Ord. of Feb. 1996)

9-510. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult oriented establishment.

(2) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Cleveland Police Department, or any person designated by the city council. (Ord. of Feb. 1996)

9-511. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the city clerk. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city clerk. A copy of the application for renewal shall be distributed promptly by the city clerk to the Cleveland Police Department and to the operator. The application for renewal shall be upon a form provided by the city clerk and shall contain such information and data, given under oath or affirmation, as may be required by the city council.

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

(3) If the Cleveland Police Department is aware of any information bearing on the operator's qualifications, the information shall be filed in writing with the city clerk.

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

employee. The application for renewal shall be upon a form provided by the city clerk and shall contain such information and data, given under oath or affirmation, as may be required by the city clerk.

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

(6) If the Cleveland Police Department is aware of any information bearing on the employee's qualification, that information shall be filed in writing with the city clerk.

(7) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated and approved or denied within the same time periods as those established in this chapter for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights of appeal to the city council as set forth in § 9-518. (Ord. of Feb. 1996, as amended by Ord. #2003-28, Oct. 2003)

9-512. Revocation of license or permit. (1) The city manager shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

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

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

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

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

(2) Notwithstanding anything herein to the contrary, before revoking or suspending any license or permit, the city manager shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the city council. In the event the license holder or permit holder does not request in writing a hearing before the city council within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.

If the license holder or permit holder desires to request a hearing before the city council to contest the suspension or revocation, such request shall be made in writing to the city manager within ten (10) days of the license holder's or permit holder's receipt of the notification from the city manager. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.

If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the city manager's receipt of such request before the city council, at which time the license holder or permit holder may present evidence as to why the suspension or revocation is improper or contrary to the provisions of this chapter. The city council shall hear evidence concerning the basis for such suspension or revocation and shall affirm or reverse the suspension or revocation at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-two (22) days after the license holder's or permit holder's receipt of notification of the suspension or revocation, unless an extension beyond such time period is requested by the license holder or permit holder and granted by the city council.

If the city council affirms the suspension or revocation, the office of the city attorney shall institute suit for declaratory judgment in a court of record in Bradley County, Tennessee, within five (5) days of the date of any such

affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.

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

(4) Any operator or employee who's license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (Ord. of Feb. 1996, as amended by Ord. #2003-28, Oct. 2003)

9-513. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. on weekdays or between the hours of 1:00 A.M. and 12:00 midnight on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Cleveland Police Department or such other persons as the city council may designate. (Ord. of Feb. 1996)

9-514. Responsibilities of the operator. (1) The operator shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city council. The above information of each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

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

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

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

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

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

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

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

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

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

This Adult-Oriented Establishment is Regulated by Cleveland City Code, Title 9, Chapter 5, Sections 9-501 through 9-516. Entertainers Are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (Ord. of Feb. 1996)

9-515. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse of oral or anal copulation or other contact stimulation of the genitalia.

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

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

(4) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee and/or customer. (Ord. of Feb. 1996)

9-516. Penalties and prosecution. (1) Any person, partnership, or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (Ord. of Feb. 1996)

9-517. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional, and shall not affect any other section, clause, or provision of this chapter. (as added by Ord. #2003-28, Oct. 2003)

9-518. Denial of applications or renewals. (1) As used in this section, "application" shall mean:

- (a) An application for a license;
- (b) An application for a permit;
- (c) An application for a license renewal; and
- (d) An application for a permit renewal.

(2) Whenever an application is denied, the city clerk shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the city council. If the applicant desires to request a hearing before the city council to contest the denial of an application, such request shall be made in writing to the city manager within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the city manager's receipt of such request before the city council at which time the applicant may present evidence as to why the application should not be denied. The city council shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-two (22) days after the

applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the city council.

(3) If the city council affirms the denial of an application, the office of the city attorney shall institute suit for declaratory judgment in a court of record in Bradley County, Tennessee, within five (5) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law. (as added by Ord. #2003-28, Oct. 2003)

9-519. Compliance with zoning laws. (1) As used in this section, "applicant" or "applicants" shall mean:

- (a) An applicant for a license;
- (b) An applicant for a permit;
- (c) An applicant for a license renewal;
- (d) An applicant for a permit renewal.

(2) All applicants must comply with all zoning laws and regulations of the City of Cleveland. (as added by Ord. #2003-28, Oct. 2003)

CHAPTER 6**CABLE TELEVISION****SECTION**

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television shall be furnished to the City of Cleveland and its inhabitants under franchise granted to Telecable of Cleveland, Inc., by the city council of the City of Cleveland, Tennessee. The rights, powers, duties and obligations of the City of Cleveland and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see the Ordinance dated January 19, 1990 in Appendix A at the end of this municipal code.

CHAPTER 7

TAXICABS

SECTION

- 9-701. Scope of chapter.
- 9-702. Definitions.
- 9-703. Character of service to be furnished.
- 9-704. Certificate of public convenience and necessity.
- 9-705. Application for certificate.
- 9-706. Hearing on certificate.
- 9-707. Issuance of certificate.
- 9-708. Transfer of certificate.
- 9-709. Suspension or revocation of certificate.
- 9-710. Indemnity bond or liability insurance required.
- 9-711. Privilege taxes to be paid.
- 9-712. Records and reports required.
- 9-713. Permit requirements for taxicab drivers.
- 9-714. Form and content of application for permit; accompanying documents.
- 9-715. Fee for permit.
- 9-716. Investigation of application for permit.
- 9-717. Persons ineligible for permits.
- 9-718. Issuance of permit.
- 9-719. Term of permit; design.
- 9-720. Display and illumination of permit.
- 9-721. Suspension or revocation of permit.
- 9-722. Photograph of applicant for permit to be filed.
- 9-723. Inspection, fees, certificate.
- 9-724. Condition of taxicabs.
- 9-725. Signs, insignia, color scheme for taxicabs.
- 9-726. Rates prescribed; rate card to be posted.
- 9-727. Receipt for fare to be given if requested.
- 9-728. Refusal to pay legal fare.
- 9-729. Manifests to be maintained.
- 9-730. Drivers prohibited from soliciting patronage.
- 9-731. Aiding or engaging in unlawful or immoral acts prohibited.
- 9-732. Places for accepting and discharging passengers.
- 9-733. Group rides regulated.
- 9-734. Use of streets for parking regulated; private facilities required.

9-701. Scope of chapter. The provisions of this chapter relate to the operation and control of taxicabs in the City of Cleveland and to the drivers of taxicabs operating taxicabs within the corporate limits of the City of Cleveland. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-702. Definitions. The following words and phrases when used in this chapter shall have the meaning as set out herein:

(1) "Certificate" means a certificate of public convenience and necessity issued by the city council authorizing the holder thereof to conduct a taxicab business in the city.

(2) "Cruising" means the driving of a taxicab on the streets, alleys, or public places of the city in search of or soliciting prospective passengers for hire.

(3) "Holder" means a person to whom a certificate of public convenience and necessity has been issued.

(4) "Manifest" means a daily record prepared by a taxicab driver of all trips made by the driver showing time and place of origin, destination, number of passengers, and the amount of fare of each trip.

(5) "Person" includes an individual, a corporation or other legal entity, a partnership, and any unincorporated association.

(6) "Rate card" means a card issued by the City of Cleveland for display in each taxicab which contains the rates of fare then in force.

(7) "Senior citizen" means any passenger who is sixty-two (62) years old or older.

(8) "Taxicab" means a motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than eight (8) persons, and not operated on a fixed route. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-703. Character of service to be furnished. All persons engaged in the taxicab business in the City of Cleveland operating under the provisions of this chapter shall render an overall service to the public desiring to use taxicabs. Holders of certificates of public convenience and necessity shall maintain a central place of business and keep it open twenty-four (24) hours a day for the purpose of receiving calls and dispatching cabs, unless a lesser time is established by a resolution passed by the city council. They shall answer all calls received by them for services inside the City of Cleveland as soon as they can do so, and if the services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefor. Any holder who refuses to accept a call anywhere in the City of Cleveland at any time when the holder has available cabs, or who fails or refuses to give overall service, shall be deemed a violator of this chapter and the certificate granted to the holder shall be revoked at the discretion of the city council. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-704. Certificate of public convenience and necessity. It shall be unlawful for any person to operate or permit a taxicab owned or controlled by said person to be operated as a vehicle for hire upon the streets of the city without having first obtained a certificate of public convenience and necessity

from the city council. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-705. Application for certificate. An application for a certificate of public convenience and necessity shall be filed with the city council upon forms provided by the city clerk's office, shall be verified under oath, and shall furnish the following information:

- (1) Name, address. The name and address of the applicant.
- (2) Financial status. The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to the judgments.
- (3) Experience. The experience of the applicant in the transportation of passengers.
- (4) Necessity. Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate.
- (5) Vehicles, facilities. The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.
- (6) Color scheme insignia. The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (7) Additional information. Such further information as the city council may require. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-706. Hearing on certificate. Upon the filing of an application for a certificate of public convenience and necessity, the city clerk shall fix a time and place for a public hearing thereon. Notice of the hearing shall be given to the applicant and to all persons to whom certificates of public convenience and necessity have been heretofore issued. Due notice shall also be given the general public by posting a notice of the hearing in a newspaper of general circulation. Any interested person may file with the city council a memorandum in support of or in opposition to the issuance of a certificate. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-707. Issuance of certificate. (1) Findings. If the city council finds that further taxicab service in the City of Cleveland is required by the public convenience and necessity, and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this chapter and other rules promulgated by the city council, then the city council shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate, and the date of issuance; otherwise, the application shall be denied.

(2) Matters to be considered. In making the above findings, the city council shall take into consideration the number of taxicabs already in operation; whether existing transportation is adequate to meet the public need;

the probable effect of increased service on local traffic conditions; and the character, experience, and responsibility of the applicant. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-708. Transfer of certificate. No certificate of public convenience and necessity may be sold, assigned, mortgaged, or otherwise transferred without the prior consent of the city council. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-709. Suspension or revocation of certificate. (1) Grounds. A certificate issued under the provisions of this chapter may be revoked or suspended by the city council if the holder thereof has violated any of the provisions of this chapter, has discontinued operations for more than sixty (60) days, or has violated any ordinances or municipal code provisions of the City of Cleveland, law of the United States, or a law of the State of Tennessee, the violation of which unfavorably reflects on the fitness of the holder to offer public transportation.

(2) Notice, hearing. Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard at the next regularly scheduled meeting of the city council. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-710. Indemnity bond or liability insurance required.

(1) Indemnity bond or liability insurance policy. No certificate of public convenience and necessity shall be issued or continued in operation unless there is in full force and effect an indemnity bond or liability insurance for each vehicle authorized in an amount established by resolution of the city council. The bonds or insurance policies shall inure to the benefit of any person who is injured or who sustains damage to property proximately caused by the negligence of a holder, his servants, or agents. The bonds or insurance policies shall be filed in the office of the city clerk. Indemnity bonds or insurance policies shall be issued by companies authorized to do business in the State of Tennessee. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-711. Privilege taxes to be paid. No certificate of public convenience and necessity shall be issued or continued in operation unless the holder thereof has paid the applicable privilege taxes levied by the city council. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-712. Records and reports required. (1) Operating information. Every holder shall keep accurate records of receipts from operations, operating and other expenses, capital expenditures, and such other operating information as may be required by the city council. Every holder shall maintain the records

containing such information and other data required by this chapter at a place readily accessible for examination by the city clerk's office.

(2) Annual reports to city business tax office. Every holder shall submit reports of receipts, expenses, and statistics of operation to the City of Cleveland business tax office for each calendar year, in accordance with a uniform system prescribed by the city clerk. The reports shall reach the business tax office on or before the last day of August of the year following the calendar year for which the reports are prepared.

(3) Accident reports. All accidents arising from or in connection with the operation of taxicabs shall be reported within twenty-four (24) hours from the time of occurrence to the Cleveland Police Department in a form of report to be furnished by the police department.

(4) Other records. It shall be mandatory for all holders to file with the city clerk's office copies of all contracts, agreements, arrangements, memoranda, or other writing relating to the furnishing of taxicab service to any hotel, theater, hall, public resort, railway station, or other place of public gathering, whether such arrangements are made with the holder or any corporation, firm, or association with which the holder may be interested or connected. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-713. Permit requirements for taxicab drivers. No person shall act as a driver of a taxicab unless the person has first obtained a taxicab driver permit from the Cleveland Police Department. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-714. Form and content of application for permit; accompanying documents. (1) Application. Taxicab drivers' permits shall be applied for in writing on such form as the chief of police, or the chief's designee, may prescribe.

The application shall show proof of the applicant's current Tennessee class D license with an F endorsement; what experience the applicant has had in driving motor vehicles; whether the applicant has been convicted of violating any motor vehicle, traffic, or criminal law of the City of Cleveland, the State of Tennessee, the United States of America, or of any other city or state, together with the particulars of all such convictions; and such other information as the chief of police, or the chief's designee, may reasonably require.

(2) Accompanying documents. Each applicant shall be accompanied by at least two (2) recent photographs of the applicant of such size and design as designated by the chief of police or the chief's designee; a certificate from a physician licensed to practice medicine in Tennessee showing that the applicant is not disabled by reason of defects in his sight, hearing, body, or limbs from safely operating a motor vehicle; and certificates from at least three (3) reputable persons personally acquainted with the applicant showing the applicant to be a person of good moral character. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-715. Fee for permit. No permit or renewal of a permit to drive a taxicab shall be issued until the applicant therefor has first paid to the Cleveland Police Department a fee of fifteen dollars (\$15.00). (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-716. Investigation of application for permit. Except on an application for renewal, before a taxicab driver permit is issued, the chief of police, or the chief's designee, shall investigate the statements made in the application and shall determine whether the applicant complies with this chapter and is entitled to a permit. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-717. Persons ineligible for permits. No taxicab driver permit shall be issued to anyone who has been convicted of a felony or any crime involving moral turpitude.

No taxicab driver permit shall be issued to anyone less than eighteen (18) years old. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-718. Issuance of permit. The chief of police shall issue a taxicab driver permit to any applicant therefor who complies with this chapter and who under its provisions is entitled to the permit. Any applicant refused a permit or permit renewal may request an appeal to the city manager, who upon review of the matter, shall decide whether said permit should be issued. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-719. Term of permit; design. (1) A taxicab driver permit shall be issued for a period of not more than one (1) year and shall continue in effect only through March 31 of the year within which it is issued, except that during March of any year, permits may be issued to be effective through March 31 of the next year. No pro-ration of the fee is allowed.

(2) Taxicab drivers' permits shall be of such size and design as the chief of police, or the chief's designee, may prescribe. However, each permit shall bear on its face a photograph of the applicant, the number of his permit, its expiration date, and such other information as the chief of police, or the chief's designee, may direct. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013, and amended by Ord. #2019-50, Jan. 2020 *Ch18_01-10-22*)

9-720. Display and illumination of permit. The permit of each taxicab driver shall be kept prominently displayed and visible to the passengers of the taxicab. After sundown, it shall be illuminated by a suitable light so as to remain plainly visible to the passengers. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-721. Suspension or revocation of permit. (1) Grounds. Any permit granted to any taxicab driver under the terms of this chapter may be suspended or revoked by the chief of police for the driver's failure or refusal to comply with any of the provisions of this chapter. The permit may also be revoked if the taxicab driver's Tennessee class D license with an F endorsement is revoked or expires; if the taxicab driver willfully or persistently violates any city ordinance or state or federal law; or if the permit holder is convicted of either a felony, or a crime involving moral turpitude.

(2) Conditions precedent to revocation. A permit may not be revoked unless the taxicab driver has received notice of the proposed revocation and reasons therefor at least forty-eight (48) hours prior to the proposed revocation, and has had an opportunity to show cause why his permit should not be revoked.

(3) Appeal of revocation. Any taxicab driver whose permit is revoked by the chief of police under this section may request an appeal to the city manager, who upon review of the matter shall decide whether said permit should be revoked or reinstated. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-722. Photograph of applicant for permit to be filed. One (1) photograph of each applicant for a taxicab driver permit shall be retained in the files of the Cleveland Police Department with the application. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-723. Inspections, fees, certificates. (1) Time, place, fee. To insure compliance with the provisions of this chapter all taxicabs shall be inspected by the city's fleet manager before they can be placed in service as a taxicab. Thereafter, they shall be regularly inspected annually in January by the city's fleet manager. An inspection fee of forty dollars (\$40.00) per vehicle shall be charged for each annual inspection. The times and places for such inspections shall be prescribed by the fleet manager who shall also see that notice thereof is given individually to each holder of a certificate of public convenience and necessity.

(2) Certification of inspection. A certificate of inspection shall be issued and prominently displayed on the windshield of each taxicab found to comply with the provisions of this chapter. No holder of a certificate of public convenience and necessity shall allow a taxicab to be operated without a certificate of inspection.

(3) Additional inspections. In addition to the initial inspection and regular annual inspections for which the fees are to be charged, taxicabs shall be inspected without cost to the holders at such other times and places as the chief of police or fleet manager may reasonably direct.

(4) Noncompliance with inspection requirements. When any taxicab is found not to conform to the requirements of this chapter, its certificate of

inspection shall be revoked. Such taxicab shall not thereafter be operated in the City of Cleveland until it has been put in proper condition, an extra twenty dollar (\$20.00) inspection fee paid, and a new certificate of inspection obtained following re-inspection by the fleet manager. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-724. Condition of taxicabs. All taxicabs operated in the City of Cleveland shall be kept in a clean and sanitary condition inside and out. They shall also be kept in such mechanical condition as is reasonably necessary to provide for their satisfactory operation and the safety of the public. They shall be equipped with such lights, brakes and other mechanical equipment and devices as are required by state law and the Cleveland Municipal Code for motor vehicles generally. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-725. Signs, insignia, color scheme for taxicabs. (1) Each taxicab shall bear on the outside of each rear door, in painted letters not less than two inches (2") in height, the name of the owner and/or company name, and in addition may bear an identifying design approved by the city council.

(2) No vehicle covered by the terms of this chapter shall be licensed whose color scheme, identifying design, monogram, or insignia to be used thereon in the opinion of the city council conflicts with or imitates any color scheme, identifying design, monogram, or insignia used on a vehicle or vehicles already operating under this chapter in such a manner as to be misleading or tend to deceive or defraud the public. If after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram, or insignia thereof is changed so as to be in the opinion of the city council in conflict with or in imitation of any color scheme, identifying design, monogram, or insignia used by any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate covering the taxicab or taxicabs shall be suspended or revoked. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-726. Rates prescribed; rate card to be posted. (1) No owner or driver of a taxicab shall charge a greater sum for the use of a taxicab than is prescribed by resolution of the city council. Taxicabs must use the most direct route possible from the point of passenger entry to the passenger's destination point. When more than one (1) passenger employs the same taxicab, charges shall be made for the additional passengers consistent with the rules prescribed by a resolution passed by the city council. In establishing the rates, the city council may authorize a discount of up to twenty percent (20%) from the regular rates, fees, and charges for senior citizens.

(2) Every taxicab operated under this chapter shall have a rate card issued by the business tax office setting forth the authorized maximum rates of fare which can be charged. Said card shall be displayed in such manner as to

be in full view of all passengers and shall clearly denote if any senior citizen discount rates are in effect. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-727. Receipt for fare to be given if requested. The driver of any taxicab shall upon demand by any passenger tender to the passenger a receipt for the amount charged. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-728. Refusal to pay legal fare. It shall be unlawful for any person to refuse to pay the legal fare for any taxicab after having hired it, and it shall be unlawful for any person to hire any taxicab with intent to defraud the person from whom it is hired of the value of such service. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-729. Manifests to be maintained. (1) Form, contents. Every driver shall maintain a daily manifest upon which are recorded all trips made each day, showing time and place of origin and destination of each trip and amount of fare. All completed manifests shall be returned to the owner by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the city clerk's office.

(2) Preservation. Every holder of a certificate of public convenience and necessity shall retain and preserve all drivers' manifests in a safe place for at least the calendar year next preceding the current calendar year, and the manifests shall be available to the Cleveland Police Department and the city clerk's office. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-730. Drivers prohibited from soliciting patronage. No driver shall solicit passengers for a taxicab nor cruise in search of passengers. Neither shall any driver annoy any person, obstruct the movement of any person, or follow any person for the purpose of soliciting his patronage. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-731. Aiding or engaging in unlawful or immoral acts prohibited. No driver shall help, aid, assist, use, otherwise engage, or knowingly allow his taxicab to be used in the commission of or in furtherance of any unlawful or immoral act, purpose, or design. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-732. Places for accepting and discharging passengers. Drivers of taxicabs shall not receive or discharge passengers in the roadway but shall pull up to the right-hand sidewalk as nearly as possible, or in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or

discharge passengers. Upon one-way streets, passengers may be discharged on either side of the road. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-733. Group riding regulated. Whenever one (1) passenger has lawfully and properly entered or engaged a taxicab, no additional passenger shall be accepted without the consent of the first passenger. The first passenger has the right to require the additional passengers to pay one-half (1/2) of the cost for the trip. In any event, sufficient room must be left for the driver at all times to have free, comfortable, and easy control of the operation of the taxicab. Not more than two (2) passengers shall be permitted to sit upon the same seat occupied by the driver of any taxicab. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)

9-734. Use of streets for parking regulated; private facilities required. All holders of a certificate of public convenience and necessity are required to provide private facilities for the parking of their taxicabs when the taxicabs are not engaged or lawfully parked. (Ord. of Jan. 1999, as replaced by Ord. #2013-9, March 2013)