

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

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CHAPTER 1**GENERALLY****SECTION**

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¹Municipal code references

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Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

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

Any person desiring to hold a "going out of business" sale shall first file a written application for such a permit. The application shall contain the following:

(1) The name, address, and occupation or business of the person, firm or corporation desiring to conduct such "going out of business" sale.

(2) The location and address where such "going out of business" sale is to be conducted.

(3) A statement showing the date or dates of said "going out of business" sale.

(4) A statement showing dates and places of any other "going out of business" sales engaged in by the applicant for a period of two (2) years next preceding the date of application.

(5) A list or schedule of inventory, stock and merchandise to be disposed of at such "going out of business" sale.

(6) The names and addresses of all owners, partners, or stockholders in said business.

(7) An affidavit by the applicant that he does not intend to re-open the same or similar business, either directly or indirectly, for a period of one (1) year from the date of such sale.

The application will be reviewed for approval by the city administration.

Any person granted a permit shall not be issued another such permit for a period of one (1) year from the date shown on such permit. The permit shall not be transferrable. Any person conducting a "going out of business" sale in violation of the provisions of this section shall be subject to a penalty in accordance with the general penalty clause of this code. (1976 Code, § 5-102)

9-102. Rental of sale of flotation devices regulated, generally.

(1) It shall be unlawful for any person, firm or corporation to engage in the commercial activity of renting or otherwise providing inner tubes, inflated rafts, or other flotation devices for the intended use by swimmers or others for floating on any portion of any river, creek, or other watercourse in the City of Gatlinburg, permission for the use of which portion has not been obtained from all of the riparian owners or other persons entitled to control the possession and occupancy thereof. Each person, or corporation advertising or otherwise holding themselves out to provide for a consideration inner tubes, inflated rafts, or other flotation devices in the City of Gatlinburg for these purposes shall be guilty of

a violation of this section. Each person (whether acting for such person or for any other party) who for a consideration engages in renting or otherwise providing inner tubes, inflated rafts, or other flotation devices for these purposes, shall be guilty of violating the provisions of this section.

(2) No such activity heretofore described shall constitute a violation of the section if the use of the flotation devices thus provided, is confined to portions of a river, creek, or other watercourse where such use has been approved by all of the riparian owners or others entitled to control and possession and occupancy thereof. The sale of innertubes, inflated rafts, or other flotation devices in stores for general use, and without any express or implied act by the seller suggesting the use thereof on any portion of any river, creek, or other watercourse in Gatlinburg without the consent of the riparian owner or the party entitled to control the possession and occupancy of such portion, shall, upon conviction, be fined in accordance with the provisions of the general penalty clause in this code. (1976 Code, § 5-103)

9-103. Operation of ferris wheel, merry-go-around, etc., restricted. No person shall operate any ferris wheel, merry-go-around, roller coaster, airplane ride, miniature train ride, flume ride, or any and all other amusement rides such as those used at fairs, midways and carnivals, where any part of such ride is located within three hundred feet (300') of the following street's rights-of-way in the City of Gatlinburg:

- (1) U. S. Highway 441, also referred to as Parkway, from the northern corporate city limits near Dudley Creek Road south and southwest to the southern corporate limits at the boundary line of Great Smoky Mountains National Park, excluding the area between traffic light #1 and traffic light #3;
- (2) River Road, from South Parkway to the corporate limits at the boundary line of the Great Smoky Mountains National Park;
- (3) Roaring Fork Road from East Parkway to the corporate limits;
- (4) East Parkway, east to Ridge Road;
- (5) Historic Nature Trail-Airport Road. (1976 Code, § 5-104, as replaced by Ord. #2471, Nov. 2013)

9-104. Congested areas. The Board of Commissioners of the City of Gatlinburg further finds and declares that certain other areas of the City of Gatlinburg are less congested, but have a potential for same, and hereby declares that those areas may contain the amusement rides defined herein, provided:

- (1) Temporary amusements are at least two hundred feet (200') from the listed roads and street's rights-of-way.
- (2) Permanent amusement rides are at least fifty feet (50') in distance from the roads and street's right-of-way listed.

For purpose of this section, permanent is hereby defined to be: Installed in such a way as the amusement ride is securely affixed to the

land and the amusement ride is so constructed as to not be readily removable and the value of same must reasonably exceed twenty-five thousand dollars (\$25,000.00).

(3) The roads and streets referred to in this section are as follows: Highway 73 from Ridge Road East to the Corporate limits; Cherokee Orchard Road; Parkway from traffic light #1 to traffic light #3.

(4) The provisions of this section, § 9-104, shall not apply to amusements within a totally enclosed building. However, for the purposes of this section, the term "totally enclosed building" does not include buildings that contain rollup/garage doors that remain in an up or open position during the hours of operation. (1976 Code, § 5-105, as replaced by Ord. #2471, Nov. 2013)

9-105. Parking, safety and buffer zones. In addition to the prohibitions and restrictions set out herein, anyone desiring to locate any of the amusement rides described herein, shall meet the following requirements:

(1) Adequate parking. One (1) parking space for each four (4) customers, computed on a maximum service capacity of area of the recreational use, will be provided upon the same property where the amusement is located.

(a) Each parking space shall have at least one hundred ninety (190) square feet in area and shall have paved vehicular access to a public street or alley.

(b) Turning space shall be provided so that no vehicle will be required to back into a public street.

(2) Aesthetic considerations. As a minimum, include the following requirements:

(a) Any off-street parking facility of ten (10) cars or more shall also provide the equivalent of one (1) parking space per each twenty (20) cars and each fraction thereof, to be planted with at least one (1) tree with a minimum diameter measured at the location of its greatest width of one and one-half inches (1 1/2"), and grass and/or ground cover. The exact location within the parking facility is optional with each design, but the planted area herein referred to shall be in addition to perimeter buffer strips and to other landscaping on the property outside the parking facility.

(b) The purpose of this requirement is to aid in providing visual definition, oxygenation, wind modulation, drainage absorption and relief from other problems that may result from total coverage paving.

(c) Plant material of such growth characteristics as will provide an obscuring screen of not less than seven feet (7') in height. The amount of planting required to accomplish adequate screening is variable with the individual site; the enforcing officer should arbitrate to determine types and amount when no specific standards are required, and the board of zoning appeals or planning commission shall make such determination when approval of development plans is required by either of these bodies.

In any case, the following description of screening shall be established as the minimum acceptable buffer. The depth of the zone is dependent upon the buffer strip required.

(i) Minimum specifications. Such a buffer strip shall provide within two (2) years of planting, a planted, growing barrier affording visual privacy and sight relief between properties or dissimilar uses and/or character of buildings. Visual privacy shall include screening from automobile headlights, elevated yard lights, electric signs, building lighting, mechanical equipment clusters, garbage or trash containers, and vehicular traffic. The minimum acceptable screen would consist of one (1) row or two (2) rows (centers staggered) of:

- (A) Trees as described below;
- (B) Additional shrubbery;
- (C) Ground cover;

Rows should be six feet (6') apart with six foot (6') edges both sides when two (2) rows are required and when one (1) row is required six foot (6') edges on both sides must be provided. Plants recommended for each type of screening are:

(1) Trees. White pine or Hemlock: four feet (4') O.C. if one (1) row six feet (6') O.C. if two (2) rows. Redbud or Tulip Poplar: Every fourth three, stagger lines.

(2) Shrubby. Forsythia or Bridal Wreath Spirea: four feet (4') OC. one (1) row. Hedge: Privet at one foot (1') O.C.; Barberry at one inch (1") O.C.

(3) Ground cover. Honeysuckle or Vinca Minor.

(D) Existing undisturbed vegetative buffers may be substituted for the above when in the opinion of the planning commission, it is adequate to achieve the required buffering.

(ii) Maintenance. Initial buffer planting shall be guaranteed one (1) full year. Trimming annually required thereafter. (1976 Code, § 5-106, as replaced by Ord. #2471, Nov. 2013)

9-106. Planning commission. All other requirements of the City of Gatlinburg presented by the city manager and approved by the city commission relating to the installation of amusement rides described herein, including but not limited to: adequate parking; adequate safety precautions for entrances and exits; aesthetic considerations; compliance with all ordinances and city permit requirements; compliance with zoning requirements; etc., as set forth in the various city ordinances in effect, shall be met.

Detail plans and specifications to include parking plan, site location, detailed street plan will be submitted to Gatlinburg Planning Commission for approval before any permit will be issued. (1976 Code, § 5-107, modified)

9-107. Penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction may be subject to a civil penalty of up to five hundred dollars (\$500.00) per offense. Each day's violation shall constitute a separate offense. (1976 Code, § 5-108, modified)

9-108. City logo or trademark. The city has duly recorded and protected a symbol or emblem which represents the City of Gatlinburg and its goodwill. Said symbol has been registered with the Secretary of State as an official logo, trademark, or service mark. The city has the exclusive right to use said trademark or logo but has the right to license the use of this symbol by others with restrictions and supervision by the city. Any such use of the city's logo should be allowed under certain conditions and restrictions which would preserve the goodwill of the city and not be commercialized solely for profit. (1976 Code, § 5-109)

9-109. Licensing of city logo or trademark. The city manager is authorized to negotiate with individuals or companies who wish to make limited use of the logo of the City of Gatlinburg and reduce any proposals to contract form for consideration by the board of commissioners. No agreement shall be effective or binding upon the city except by contract duly approved and executed. The following conditions shall be included in any such agreement in addition to others agreed upon by the parties:

- (1) Uses shall be for certain named products only.
- (2) Each licensee for a product shall have the exclusive use for that product.
- (3) The market area for these products shall be limited to the City of Gatlinburg only.
- (4) The logo may not be used for commercial advertising by the licensee.
- (5) The city may require samples and adequate quality control safeguards.
- (6) The city shall retain the right to inspect the goods to be sold and reject those not of quality equal to or exceeding the samples approved. The city may limit the number of units produced.
- (7) The use of the logo shall not be assignable by the licensee. (1976 Code, § 5-110)

9-110. Enforcement. The city shall reserve the right to prosecute violations of the trademark laws and unauthorized uses of the city's logo. An infringement or unauthorized use of the city's logo shall be a violation of the

Gatlinburg Municipal Code as well as all other penalties and remedies including injunctive relief allowed by state statutes. Violation of any of the provisions of the licensing agreement by the licensee shall be the basis for terminating the agreement and such violations may be in addition to the penalties allowed by state statutes for unauthorized use. (1976 Code, § 5-111)

9-111. Compensation. Licensees shall pay to the city such royalties, fees, or other consideration as may be agreed upon by the parties. (1976 Code, § 5-112)

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Street solicitation for hotel, etc. or sales prohibited.
- 9-202. Exemptions.
- 9-203. Door to door solicitations for sales prohibited, generally.
- 9-204. Loud noises and speaking devices.
- 9-205. Identification badge required.
- 9-206. Application and fee.
- 9-207. Exception.
- 9-208. Penalty.

9-201. Street solicitation for hotel, etc. or sales prohibited. It shall be unlawful for any person or persons to drum, solicit business for an inn, hotel or lodging or, to sell or offer for sale in any manner, goods, wares or merchandise of any description upon the streets or sidewalks of the city. It shall also be a violation for any person to solicit or offer for sale near public property when such activity involves the interference or interruption of pedestrian or traffic flow on the city sidewalks, streets, or other public thoroughfares. (1976 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to any vehicle that exhibits on its sides and/or rear, the name, trade name, type of business or enterprise of the owner, nor to newsboys, nor to bona fide charitable, religious, patriotic or philanthropic organizations.

There is also exempted from the prohibitions of the preceding section the activities associated with city sponsored events where the city has closed a city street for the purpose of conducting special events funded by the city and the Chamber of Commerce. Sales and solicitations on streets and sidewalks shall be allowed only within the area where the street is closed and only for the duration of the event. Persons participating in such special events and wishing to display merchandise or solicit sales shall be required to comply with regulations established by the board of commissioners of the City of Gatlinburg and adopted by resolution prior to any such event. (1976 Code, § 5-202)

¹Municipal code reference
Privilege taxes: title 5.

9-203. Door to door solicitations for sales prohibited, generally.¹

It shall be deemed a nuisance and punishable as a misdemeanor for any solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise not having been requested or invited so to do by the owner or owners, occupant or occupants of any private residence to go in or upon such premises for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same. Provided, however, that the provisions of this section shall not apply to the sale or soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs and other farm and garden produce so far as the sale of the commodities named herein is now authorized by law. (1976 Code, § 5-203)

9-204. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the municipality or upon private premises where sound or sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public place, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (1976 Code, § 5-204)

9-205. Identification badge required. In the commercial districts of the city, all peddlers, drummers, hawkers, commercial solicitors, salespersons, canvassers, or others in a similar activity specifically including timeshare salespersons and others distributing promotional literature for the same, shall be required to obtain and prominently display an identification badge on their person. The requirements of this section shall not apply to those who are conducting such activity within the confines of their principal place of business but shall apply to the public areas of the city, including setback areas, open plazas, and booths open to the public sidewalk or set back area, set up for the purpose of promoting, distributing or selling information or referring persons to other locations for commercial purposes. (Ord. #2185, Aug. 1999)

9-206. Application and fee. The identification badge required in § 9-205 above may be obtained from the Gatlinburg Police Department. In order to obtain such an identification badge, the applicant shall provide the following information:

- (1) Name, address and local telephone number;

¹The validity of this section was upheld by the Supreme Court of the United States in the case of City of Alexander v. Breard, 95 L.Ed. 838 on June 4, 1951.

- (2) Date of birth and either drivers license number or social security number;
- (3) The previous residence(s) of the applicant for the preceding three years;
- (4) Location of proposed activity;
- (5) Name of the applicant's employer; and
- (6) The type of activity proposed.

A non-refundable application and identification badge fee in the amount of twenty-five dollars (\$25.00) shall be due upon submittal of the application. Said fee is for the purpose of defraying the cost of equipment, processing, records keeping, and records check. Such identification badge shall be carried with the applicant at all times and prominently displayed during any solicitation or distribution activity. The identification badge shall be valid for a period of one year from date of issuance. (Ord. #2185, Aug. 1999)

9-207. Exception. The requirements of §§ 9-205 and 9-206 shall not apply to salespersons who are soliciting orders or business within the premises of the business establishment. (Ord. #2185, Aug. 1999)

9-208. Penalty. Any person violating §§ 9-205 and 9-206 shall, upon conviction, be fined an amount not to exceed \$500.00. In addition to any other penalty imposed, any person convicted on two or more occasions for violation of the above sections shall be required to surrender their identification badge to the city. (Ord. #2185, Aug. 1999)

CHAPTER 3

CHARITABLE, RELIGIOUS AND COMMERCIAL SOLICITATION

SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Application for permit.
- 9-304. Issuance of a permit.
- 9-305. Permit for charitable and religious solicitation.
- 9-306. Revocation of a permit for charitable and religious solicitations.
- 9-307. Regulation of location, times and numbers of charitable and religious solicitors.
- 9-308. [Repealed.]
- 9-309. [Repealed.]
- 9-310. Off-premises canvassing/solicitation.

9-301. Permit required. No person shall solicit contributions for any charitable or religious purpose within the City of Gatlinburg without a permit from the city manager authorizing such solicitation. Provided, however, that the provisions of this section shall not apply to any locally established church or organization organized and operated exclusively for religious or charitable purposes and not operated for the pecuniary profit of any person, if the solicitations by such established person or group are conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for making such contributions, or if the solicitations are in the form of collections or contributions at the regular assembly or services of such locally established organizations or churches. (1976 Code, § 5-301)

9-302. Prerequisites for a permit. The city manager shall issue a permit authorizing charitable or religious solicitations when, he finds the following facts to exist:

- (1) That the control and supervision of the solicitation will be under the supervision of either the applicant or person in charge.
- (2) That all statements and answers listed on the application for a permit are true.
- (3) That neither the applicant nor any individual soliciting with the supervision of the applicant has been adjudged guilty of a felony or misdemeanor the basis of which conviction was fraud, theft, embezzlement, or obtaining money or property under false pretenses. (1976 Code, § 5-302)

9-303. Application for permit. No person or organization shall solicit funds or properties as set out in § 9-301 until such time as the person or

organization has filed an application with the city manager of the City of Gatlinburg. Said application shall contain the following information:

- (1) The name and address of the person or organization;
- (2) The purpose for which such solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom;
- (3) The name and address of the person or persons who will be in direct charge of conducting the solicitation and the names of all promoters connected or to be connected with the proposed solicitation;
- (4) The date and times for the proposed solicitation.

Said application shall be sworn to, or affirmed, along with a statement that the funds derived from said solicitation are to be used in furtherance of the religious or charitable activity involved and will not be a fraud upon the public. (1976 Code, § 5-303)

9-304. Issuance of a permit. The city manager shall have five (5) normal working days to make an investigation of the application submitted by the applicant, holidays and weekends excluded. If a permit is neither issued nor denied within five (5) normal working days, the applicant may appeal directly to the board of commissioners of the City of Gatlinburg for issuance of a permit. In the event the permit is denied by the city manager, for whatever reason, the City of Gatlinburg shall institute proceedings in the local Chancery Court for judicial review of the city's denial, the same as for review of other administrative decisions. In lieu of this procedure, the applicant may request that the board of commissioners of the City of Gatlinburg review the denial by the city manager, however, review by the board of commissioners shall be at their discretion and in the event the board of commissioners does not exercise its discretion in reviewing the denial, the appeal shall be to Chancery Court as provided above. (1976 Code, § 5-304)

9-305. Permit for charitable and religious solicitation. If the city manager determines that the requirements of this chapter have been complied with, the city manager shall issue a permit to the applicant for solicitation of funds or property within the City of Gatlinburg. Said permit shall be valid for ninety (90) days, following which a new application must be filed with the City of Gatlinburg. Any permit issued under this chapter shall be non-transferrable. Any persons soliciting funds or property shall carry the permit or a facsimile copy thereof with him at all times and shall display same to the person solicited, if requested, or to any police officer of the City of Gatlinburg. The issuance of a permit shall not be construed to be an endorsement by the City of Gatlinburg of the charitable or religious organization, and no representations to that effect shall be made. (1976 Code, § 5-305, as replaced by Ord. #2355, Sept. 2006)

9-306. Revocation of a permit for charitable and religious solicitation. Whenever the city manager has knowledge that any person has violated any of the provisions of this chapter or that any promoter, agent or solicitor of a permit holder has misrepresented the purpose of the solicitation, or fails to abide by the limitations set forth in § 9-307, the city manager shall immediately suspend said person's permit. The city manager shall then give the permit holder written notice to the address listed on the application that said person has been suspended from further solicitation. Said notice shall state the reasons and facts relied upon by the city manager in taking this action. Said suspension shall be binding upon the permit holder unless he shall have requested a hearing within five (5) days of the notice of the suspension. If the permit holder or the person suspended wish to challenge the suspension, upon giving notice to the city manager, a hearing shall be held within fifteen (15) days of the request. The hearing shall be held by the city manager or designee and at such hearing the permit holder as well as the individual or any other interested person may present evidence regarding the suspension. The city manager shall render a decision within two (2) days following the hearing and said decision shall be reduced to writing and a copy thereof delivered to the permit holder and the individual involved. If the city manager finds that a violation has occurred, the suspension shall be upheld. Suspensions shall be for a minimum of ninety (90) days. If the city manager determines that violations have not occurred, the privilege of soliciting shall be reinstated for the suspended individual. (1976 Code, § 5-306, as replaced by Ord. #2355, Sept. 2006)

9-307. Regulation of location and numbers of charitable and religious solicitors. Due to the heavy traffic and pedestrian congestion in the city and the potential safety hazards, soliciting of funds on the streets, sidewalks and ten (10) foot front yard setback areas of the City of Gatlinburg are strictly prohibited. Religious solicitation is limited to areas where the sidewalk is at least ten (10) feet in width, as measured from the street side of the sidewalk curb measuring away from the street, and there shall be a maximum of two (2) persons at any one location at any given time. Persons violating the limitations set forth herein may be suspended from further solicitations in addition to other penalties provided by law. (1976 Code, § 5-307, as amended by Ord. #2219, Oct. 2000, and replaced by Ord. #2355, Sept. 2006)

9-308. [Repealed.] (As added by Ord. #2219, Oct. 2000, and replaced by Ord. #2355, Sept. 2006, and repealed by Ord. #2421, Nov. 2009)

9-309. [Repealed.] (Ord. #2197, Nov. 1999, modified, as amended by Ord. #2266, April 2002, and replaced by Ord. #2355, Sept. 2006, and repealed by Ord. #2421, Nov. 2009)

9-310. Off-premises canvassing/solicitation. (1) Findings and purpose. This section is based on the following findings and purposes.

(a) (i) Because of the proliferation of off-premises solicitation and individuals acting as acquisition agents within the Gatlinburg Commercial Aesthetic District (hereinafter "CA District"), and the fact that the volume of such activities has resulted in numerous complaints by pedestrians and tourists about the aggressive and persistent actions of such persons attempting to engage them in conversation in order to consummate a business transaction, it is the intent of this section to preserve and protect the unique charm and small town character of the City of Gatlinburg CA District, which serves as a major attraction to millions of tourists each year.

(ii) The city is committed to maintaining its small town character, scenic beauty and natural resources, which are the foundation of its economic strength and quality of life. The downtown area in particular has been recommended to be designated a scenic and landscape resource of significance ("SLRS") (Saratoga Report 2007). These essential components of the city's attractiveness to residents and visitors have been severely impaired by the practice of aggressive off-premises canvassing and acquisition agents, particularly as practiced in the CA District.

(iii) Between 2006 and 2008, the city received copies of more than eighty (80) written complaints as well as innumerable verbal complaints from visitors, tourists, business owners and citizens regarding the off-premises canvassing and the aggressive tactics of acquisition agents within the CA District. A number of the complaining visitors described these activities as ruining the special character of the city which was their reason for visiting and expressed their determination not to return to the city because the aggressive off-premises canvassing and acquisition agents had destroyed its attractiveness as a place to visit.

(iv) The ordinance set forth in this section is therefore directed solely to the regulation of the time, place and manner of certain limited forms of commercial speech by acquisition agents and acquisition agent firms directed towards visitors, tourists and residents within the CA District. The ordinance set forth in this section is not intended to regulate any form of speech other than speech designed to do no more than propose a commercial transaction.

(v) Given the unique commingling of both public and privately owned sidewalks throughout the CA District which are equally accessible without restriction by tourists and pedestrians,

the purposes of the ordinance set forth in this section can only be made effective if the restrictions contained herein are applied to both public sidewalk and the front yard setback of ten feet (10') used by pedestrians and identified in the City of Gatlinburg Zoning Ordinance.

(b) Tourism is essential to the city's fiscal strength. Gatlinburg's friendly, small town environment has historically played a substantial role in making it an attractive tourist destination and the "Gateway to the Smokies." The Great Smoky Mountains National Park attracts between nine and ten million (9,000,000-10,000,000) visitors each year. Gatlinburg has been deemed Tennessee's first premier resort location. (Gatlinburg Chamber of Commerce, In the Heart of it All Brochure). In 2007, it is estimated that the gross receipts from amusement, lodging and restaurant revenues within the City of Gatlinburg amounted to over two hundred ninety-seven million dollars (\$297,000,00.00), representing over sixty percent (60%) of total city revenues as reported by the Gatlinburg Chamber of Commerce. Because the CA District is a critical component of the city's entire sales tax base, the ordinance set forth in this section is further designed to protect the economic viability of this area by ensuring a pleasurable outdoor shopping experience uninhibited by repeated personal sales solicitations for the millions of tourists which visit the area each year.

(c) In 2008 the consulting firm Sprinkle Consulting was commissioned to evaluate concerns related to pedestrian safety within the CA District. The report identified the following: The sidewalk and street environment in the CA District is busy, with traffic and pedestrian flows in close proximity to one another. The sidewalks are crowded with a wide range of pedestrian age, group sizes, and types. Pedestrian mobility types are diverse. Persons with disabilities are significantly present. There are many children and senior citizens. The free flow of pedestrians along the sidewalks is constrained in numerous ways. Commercial solicitation in the stream of pedestrians, particularly in the form of direct verbal sales invitations and dialogue with pedestrians has been observed with the concomitant interruption on the flow stream of pedestrians. Commercial solicitation has been identified as a contributing cause to pedestrian safety concerns. (Sprinkle Consulting, Landis Report 2008). The ordinance set forth in this section is further designed to protect the safety of pedestrians within the CA District.

(d) The ordinance set forth in this section is further designed to:

(i) Protect local residents and visitors against unreasonable interference or disturbance in their peace or obstruction of free travel on city streets and sidewalks within the CA District from the conduct of acquisition agents;

(ii) Insure that acquisition agents do not misrepresent the nature of the products they are promoting or the identity of the business that is promoting the products and to provide a means for regulating such activities and enforcing the provisions of this section;

(iii) Establish an acquisition agent review board to assist the city and visitors in addressing and resolving complaints related to acquisition agent activities in an appropriate and effective manner.

(2) Definitions. For purpose of this section, the following definitions shall apply:

(a) "Acquisition agent." Acquisition agent means a person who is licensed as an acquisition agent as defined by Tennessee Code Annotated, § 62-13-142, or a person who by means of personal inducement, solicitation, or otherwise attempts directly to encourage any person to attend a sales presentation for a time-share program; provided, however, that "acquisition agent" shall not include any person, or that person's employee, who engages in any such activity solely on real property owned or leased by such person on or within the premises of a hotel, motel, private resort or lodging rental office or phone or mail solicitation business. In addition, acquisition agent shall include licensed brokers, affiliate brokers and any other individual authorized to act as acquisition agents pursuant to Tennessee Code Annotated, § 62-13-102.

(b) "Acquisition agent location." Acquisition agent location means a physical location within the Gatlinburg CA District used by acquisition agents and/or acquisition firms for off-premises canvassing from which an acquisition agent can speak directly to persons on the sidewalk. The term "acquisition agent location" does not include any physical location within the Gatlinburg CA District used by acquisition agents and/or acquisition firms for off-premises canvassing from which an acquisition agent cannot speak directly to persons on the sidewalk.

(c) "Acquisition firm." Acquisition firm means a person or entity that engages in the business of employing or contracting with acquisition agents.

(d) "Business." Any commercial activity in which any real property, timeshare interests, goods, services or edibles are sold or offered for sale or for rent within the corporate limits of the city.

(e) "Commercial solicitation." Commercial solicitation shall be defined as any person to person contact, delivery or exchange not initiated by the prospective customer which directs attention to any business, mercantile or commercial establishment, or any other commercial activity, for the purpose of directly promoting a commercial interest through sales, rentals or any exchange of value. Commercial solicitation shall specifically include solicitations by acquisitions agents.

(f) "Enclosed structure." A structure having a roof and supported by column or walls. Enclosed structure does not include any sidewalks under a roofed area.

(g) "Gatlinburg CA District." That area depicted on the City of Gatlinburg Zoning District Map as the commercial aesthetic district.

(h) "Goods." Any tangible item, including, but not limited to, edibles, products, supplies, coupons, pamphlets, brochures, and maps.

(i) "Off-Premises Canvassing" or "OPC." Person-to-person efforts initiated by a acquisition agent solely intended to interest, entice, or solicit any person to participate in commercial transactions with a business, including, but not limited to offers of goods, cash, discounts on products or services, or other items, including the offering of free goods or services made in exchange for or with the intent to induce the recipient's willingness to receive information relating to a possible commercial transaction.

(j) "Product." The real property, timeshare interests, goods, edibles or other services sold or offered for sale or rent.

(k) "Sidewalk." Sidewalk shall include both public sidewalks and the front yard setback of ten feet (10') used by pedestrians and identified in the City of Gatlinburg Zoning Ordinance.

(3) Signage. (a) Within the City of Gatlinburg CA District, it shall be unlawful for any person, company, corporation, acquisition agent, acquisition firm or entity engaged in the procurement of prospective customers for sales solicitation, presentation or substantially similar activity, to identify or advertise itself by means of any sign, that utilizes the following phrases or substantially similar phrases: "tourist information," "tourist center," "visitor information," or "information center," "activity center," "activity information" unless:

(i) The identity of the business is disclosed on the face of the sign in letters of sufficient size to be clearly readable to the public, but in no event less than fifty percent (50%) of the average size of the sign text, whichever is larger; and

(ii) The words "vacation ownership solicitation" are caused to be printed and thereafter remain in an unobscured manner, in at least clearly readable three-fourths inch (3/4") black letters within two feet (2') of the aforementioned signage concerning tourist or information either on the doors to the building, or on the exterior wall of the building immediately adjacent to the door; or, if the business operates from a booth within another business establishment, the same shall be printed on the front panel of the booth in a location clearly and consistently visible to any persons passing by; and

(iii) The requirements for signage in subsections (a) and (b) shall take effect one hundred and twenty (120) days after the enactment of this ordinance.

(b) Such signs shall comply in all material respects with any ordinances or rules specifying signage standards within the City of Gatlinburg.

(4) Time, place and manner regulation of acquisition agents.

Acquisition agents may only engage in commercial solicitation or off-premises canvassing within the Commercial Aesthetic (CA) District of the City of Gatlinburg at licensed acquisition agent locations or at any other physical location from which the acquisition agent cannot speak directly to persons on the sidewalk.

(a) An acquisition firm may license as many acquisition agent locations as it desires, however, each acquisition firm shall be prohibited from operating more than three (3) locations within the CA District of Gatlinburg at any given time.

The acquisition agent review board shall be responsible for the licensing of acquisition agent locations.

(b) Any acquisition firm currently engaging in business within the CA District as of the date of passage of this ordinance shall be able to operate four (4) acquisition agent locations within the CA District at any given time.

(5) Specific regulation of conduct. Acquisition agents shall be prohibited from the following activities on the public streets and sidewalks within the CA District:

(a) No acquisition agent shall make an untruthful, false, or misleading representation in the course of soliciting or attempting to solicit persons.

(b) No acquisition agent shall intentionally make any physical contact with any persons on the public streets or sidewalks while engaging in commercial solicitation.

(c) No acquisition agent shall continue to engage any person as part of any off-premises canvassing if the person has made an unequivocal, affirmative, audible, verbal statement that he or she no longer wishes to be solicited.

(d) Acquisition agents shall at all times while engaging in solicitation wear the required photo identification badge in a prominent location visible on his or her person to the public.

(e) No acquisition agent shall make abusive or derogatory comments directed at pedestrians.

(6) Licensing requirements. (a) Acquisition agents. All acquisition agents engaging in commercial solicitation who engage in the practice of commercial solicitation within the CA District as defined herein shall be required to register with the City of Gatlinburg and secure and wear at

a prominent and visible location on their person at all times engaged in commercial solicitation a photo identification badge. Said photo identification badge may be obtained from the Gatlinburg Police Department. Said badge shall show the name of the organization and the name of the acquisition agent. Any person seeking a photo identification badge as an acquisition agent shall produce proof that they are a licensed acquisition agent or licensed brokers, affiliate brokers or other individual authorized to act as acquisition agents pursuant to Tennessee Code Annotated, § 62-13-102. The charge for the issuance of any photo identification badge is thirty-five dollars (\$35.00) which shall be used to defray the cost and expense of the photo badge and records keeping. The Gatlinburg Police Department shall issue an acquisition agent photo identification badge to any person seeking to obtain an acquisition agent photo identification badge upon that person's payment of the annual thirty-five dollar (\$35.00) fee and presentation of proof that the person is an acquisition agent, broker or affiliate broker licensed by the State of Tennessee, or other individual authorized to act as an acquisition agent under Tennessee Code Annotated, § 62-13-102.

(b) Acquisition firms. All acquisition firms employing or contracting with acquisition agents engaging in commercial solicitation within the CA District shall be required to register with the City of Gatlinburg to obtain an acquisition firm license. The charge for obtaining an annual acquisition firm license is five hundred dollars (\$500.00), which shall be used to defray the administrative costs and expense of said licensing and enforcement. The City of Gatlinburg shall issue an acquisition firm license to any acquisition firm that registers with the City of Gatlinburg. To register with the City of Gatlinburg, an acquisition firm, if it is a sole proprietorship or general partnership, need only provide its name, address of its principal office, telephone number, name of owner or partners, and owner's or partners' home addresses, or if the acquisition firm is a corporation, limited liability company, limited partnership or other business organization other than a sole proprietorship or general partnership, then it need only provide its name, address of its principal office, telephone number, name of an officer of the acquisition firm and that officer's business address.

(c) Acquisition agent locations. All acquisition agent locations, as defined in section 2(b) of this section, shall be registered with and licensed by the City of Gatlinburg. To register an acquisition agent location, the acquisition agent or acquisition firm seeking to register the acquisition agent location must provide the City of Gatlinburg with the address of the acquisition agent location, and the name, address and telephone number of the acquisition agent or acquisition firm registering the acquisition agent location. The acquisition agent or acquisition firm must pay to the City of Gatlinburg an annual fee of two hundred dollars

(\$200.00) per location, which shall be used to defray the administrative costs and expense of said licensing and enforcement. Upon the acquisition agent or acquisition firm providing the information required by this subsection and paying the fee of two hundred dollars (\$200.00), the City of Gatlinburg shall issue a license for the acquisition agent location to the acquisition agent or acquisition firm requesting the same. Any location used by acquisition agents and/or acquisition firms for off-premises canvassing that does not meet the definition of acquisition agent location as defined in § 9-310(2)(b) of this section does not have to be licensed.

(7) Enforcement; review board. (a) A code enforcement officer shall be designated by the city and assigned enforcement powers to address and refer written complaints concerning. Acquisition agents, acquisition firms and acquisition agent locations to the appropriate party (the complained of business, the acquisition agent review board, code enforcement, and the like) with any recommended actions.

(i) Copies of any written complaints shall be forwarded to the designated code enforcement officer on at least a weekly basis.

(ii) The designated code enforcement officer shall have the authority to make one (1) of the following recommendations:

(A) That the complaint appears to be without merit, frivolous or without sufficient information to decide otherwise and that no action is recommended;

(B) That the business or entity referred to in the complaint should handle the matter and provide sufficient documentation to the designated code enforcement officer that the issue was addressed; or

(C) That the complaint be sent to the acquisition agent review board for further investigation and possible action pursuant to subsection (b) below.

(iii) All recommendations made by the designated code enforcement officer shall be in writing and copies thereof shall be forwarded to the business that was referred to in the complaint or the acquisition agent or acquisition firm if identified and to the city. Further, a copy of the complaint itself shall accompany the designated code enforcement officer written recommendation that is sent to the business entity and, if possible, the designated code enforcement officer shall communicate any action or resolution of the problem to the complaining party.

(b) An acquisition agent review board shall be appointed by majority vote of the board of commissioners for a test period of one (1) year from date of appointment. In addition to any other authority and/or powers granted herein, the acquisition agent review board shall address,

review, investigate and, when necessary, refer written complaints concerning violations of this chapter related to acquisition agent activities to the city attorney with any recommended actions. The acquisition agent review board shall be made up of three (3) persons consisting of a representative from city government, a representative from the acquisition agent or time share industry and a representative of the Gatlinburg Chamber of Commerce. At the end of the test period, the review board may be extended by majority vote of the board of commissioners.

(i) The acquisition agent review board shall have authority to make the following recommendations:

(A) That a complaint appears to be without merit, frivolous, or without sufficient information to decide otherwise and that no action is recommended; or

(B) That formal review is required according to the following procedures:

(1) The acquisition review board issues a formal inquiry to the business or entity referred to in the complaint.

(2) The business or entity referred to in the complaint provides a formal answer to the acquisition agent review board within five (5) business days of receipt of formal inquiry;

(C) The acquisition agent review board reviews and investigates any response received by the business or entity in question. Whereupon after review, the acquisition agent review board may do the following:

(1) Recommend to the city attorney that no further action is necessary on the complaint;

(2) Find that the business or entity referred to in the complaint handled the matter by addressing concerns to the satisfaction of the acquisition agent review board and that further prosecution is not recommended; or

(3) Recommend that the complaint be forwarded to the city attorney for consideration of further action pursuant to subsection (8) below.

(c) The above procedures and any recommendations made by the acquisition agent review board are advisory in nature and in no way limit the ultimate discretion of the city code enforcement officer, city attorney or police department in determining whether or not to file or when to file civil or criminal charges.

(8) Violation and penalties. (a) Any violation of the terms of this article shall be punishable by a civil fine to fifty dollars (\$50.00) per

occurrence for an acquisition agent, and up to fifty dollars (\$50.00) per occurrence for an acquisition firm.

(b) Any acquisition agent who commits three (3) or more violations of this ordinance within a three hundred sixty five (365) day period shall be suspended from commercial solicitation within the City of Gatlinburg for a period of at least ninety (90) days and shall be required to surrender his or her photo identification badge. Each additional violation shall constitute an additional thirty (30) day suspension.

(c) The designated code enforcement officer is charged with the implementation and enforcement of this ordinance.

(d) Alternatively, based upon a recommendation of the acquisition agent review board or in its own discretion, the code enforcement division may provide one (1) written warning to any offending acquisition agent and/or acquisition firm employer.

(e) Nothing within this section shall limit the ultimate discretion of the city code enforcement officer, city attorney or police department in determining whether or not to file or when to file civil or criminal charges. (as added by Ord. #2357, Oct. 2006, and replaced by Ord. #2421, Nov. 2009)

CHAPTER 4

POOL ROOMS¹

SECTION

9-401. Prohibited in residential areas.

9-401. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any area of the city except an area zoned as a commercial district. (1976 Code, § 5-501)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 5

AUCTION SALES

SECTION

- 9-501. Permit to conduct auction required.
- 9-502. Prerequisites for filing application.
- 9-503. Application form.
- 9-504. Guidelines for issuance of permit.
- 9-505. Bond form.
- 9-506. Rules regulating auction sales.
- 9-507. Quality of goods to be truly represented.
- 9-508. Revocation of permit for cause.

9-501. Permit to conduct auction required. No person, firm or corporation shall conduct any auction of personal or real property within the corporate limits who has not obtained a permit from the city manager for such sale. All auction sales shall be governed by the provisions of this chapter, except auctions held pursuant to the order of a court of record, sales of executors or administrators, bona fide sales of trustees under recorded mortgages or deeds of trusts, or by lien holders acting in accordance with law, or charitable organizations conducting their own auction. (1976 Code, § 5-601)

9-502. Prerequisites for filing application. Application for a permit to conduct an auction sale in the City of Gatlinburg shall be in writing and show that all auctions conducted pursuant to the application will be conducted by a regularly licensed auctioneer. Such application shall be accompanied with an inventory listing the articles proposed for sale or the types of articles. (1976 Code, § 5-602)

9-503. Application form. Each applicant shall file with the Department of Community Development a written application which shall reflect the following information:

- (1) The name, address and occupation or business of the person, firm or corporation desiring to conduct such auction.
- (2) The name, address and occupation or business of the person, firm or corporation for whom the auction is conducted, if other than the applicant.
- (3) Whether or not any other application for permit by him or the owner of the goods has been refused; and/or whether any such permit has been revoked or challenged after the issuance.
- (4) The name and address of the auctioneer or auctioneers, who will call or cry the auction.
- (5) The address of the place or places where the auction is to be conducted.

- (6) The time or times when the auction is to be conducted.
- (7) The kind of personal property to be sold at the auction or an inventory of the property, if available. (1976 Code, § 5-603)

9-504. Guidelines for issuance of permit. Upon the filing of an application, the building official shall make investigation of the applicant and the proposed sale. The department shall then report its findings to the city manager who shall then consider and approve or deny the application request.

The city manager may issue a permit upon the applicant paying a fee of twenty-five dollars (\$25.00) to defray cost involved in making the necessary investigation.

In granting or denying the application, the city manager shall be guided by the following elements in making his determination:

- (1) Whether the application is of good moral character;
- (2) Whether the auction will congest traffic on the streets or on the sidewalks;
- (3) Whether the applicant has been found guilty of violating the provisions of this chapter or related laws; and
- (4) Whether the sureties on the applicant's bond are solvent. (1976 Code, § 5-604)

9-505. Bond form. The bond to be filed with the application shall be in the penal sum of \$1,000 with good and solvent sureties; in the following form, to-wit:

STATE OF TENNESSEE
 COUNTY OF SEVIER

KNOW ALL MEN BY THESE PRESENT: That we _____, Principal and _____ and _____, Sureties, are held and firmly bound unto the City of Gatlinburg for its own use in the penal sum of One Thousand Dollars, for the payment well and truly to be made, we bind ourselves respectively and our heirs and administrators.

The condition of this bond is such that whereas the above named _____ has obligated himself to the City of Gatlinburg in the penal sum of \$1,000 now, therefore, if the said _____ does well and truly perform to the provisions of the Gatlinburg Municipal Code § 9-501 *et seq.*, then this obligation shall be void otherwise to remain in full force and effect for the period of one year from the date of this bond.

It is expressly understood that this bond is payable to and recoverable by the City of Gatlinburg for its own use and for the use of all persons suffering loss or damage by reason of the violation of the Gatlinburg Municipal Code by the above named principal, and to compel the principal herein to perform the obligation herein undertaken.

IN WITNESS WHEREOF, we have hereunto set our hands this the _____ day of _____, _____.

Principal

Surety

Surety

(1976 Code, § 5-605)

9-506. Rules regulating auction sales. It shall be unlawful for any person, firm or corporation conducting a public or private auction of personal property to commit any of the following violations:

(1) Mislead the public as to the reason or purpose for holding said auction by any type or method of advertisement, or inducement.

(2) To offer for sale or to sell at any auction held for the purpose of "going out of business" any merchandise other than merchandise in stock at the time of commencement of said auction.

(3) To have an agent or other person, designated by whatever title or in whatever manner, to sit in the audience and support the bids by making bids for the sole purpose of maintaining a high bid level and not as a bona fide offer to buy.

(4) To mislead the public by false, fraudulent, or negligent advertising concerning the quality of goods sold.

(5) To hold any auction other than between the hours of 8:00 A.M. and 10:00 P.M.

(6) To make any false representations or statements as to the ownership of, character or circumstances of the owner, or pretended owner of such property for the purpose of inducing the sale thereof.

(7) To falsely advertise, state or represent that such goods, wares, and merchandise are in whole, or in part, a bankrupt or insolvent stock, or damaged goods saved from fire, or to make any false statement, representation or advertisement as to the purchase, history or character of such goods, wares, or merchandise.

(8) To substitute any article in lieu of that described and offered to and purchased by the bidder.

(9) To represent and/or sell as new or unused merchandise any second hand or used merchandise.

(10) To alter, transfer, lend or sell, or rent out any permit issued under this chapter or to use any permit not issued to the person so using.

(11) To conduct an auction sale covered by this chapter after the expiration of the permit issued or after the revocation or suspension of such permit.

(12) To hold an auction at any time, at any place, or in any manner other than that prescribed in the permit.

(13) To hold an auction in which property is sold or offered for sale by any auctioneer other than one of the auctioneers named in the application for the permit.

(14) To hold any auction without fully complying with all statutes and ordinances concerning license fees, zoning, and privilege taxes.

(15) To make any false statement or any misleading statement, either oral or written, as to the kind, quality or nature of any article sold or offered for sale.

(16) To conduct an auction sale on any streets, sidewalks or public property.

(17) To conduct an auction sale in such manner that those participating or attending the auction sale are likely to occupy the sidewalks or streets in the vicinity of the place where the auction sale is being held.

(18) To sell any article for more than \$25.00 without giving the purchaser a written invoice containing a description of the article sold and the selling price.

(19) To refuse to allow any duly authorized official or representative of the City of Gatlinburg during business hours or at any other reasonable time, to examine any records required by this chapter in connection with said auction, or to examine the property offered or to be offered for sale, or to attend any auction sale while the same is going on.

(20) For the applicant to fail to be in continuous attendance at all times during the auction sale.

(21) To assign or attempt to assign his auction permit to another person.

(22) To fail to display conspicuously and continuously the permit for auction sale at the location where the auction is being conducted. (1976 Code, § 5-606)

9-507. Quality of goods to be truly represented. At every sale by auction the applicant and all persons participating in the auction shall truly and correctly represent at all times to the public attending the actual facts relating to the quality of the goods offered for sale. (1976 Code, § 5-607)

9-508. Revocation of permit for cause. The city manager shall have the power and authority to revoke any permit authorizing sale by auction of personal property for making false representations in the application for permit,

for violation of the terms of this chapter or violation of any state law or federal law regulating possession or sale of personal property. (1976 Code, § 5-608)

CHAPTER 6

HOTELS

SECTION

- 9-601. Guest required to register under correct name.
- 9-602. Hotel rates required to be posted.
- 9-603. Temporary change of rates.
- 9-604. Register inspection by police.
- 9-605. Eviction of disorderly persons.

9-601. Guest required to register under correct name. All guests at any hotel, inn, motel or other such overnight lodging accommodations shall be required to register their correct names and addresses with the management. It shall be unlawful for any person to register in any overnight lodging accommodation under an assumed or fictitious name or to list a fictitious address as being his place of residence. (1976 Code, § 5-701)

9-602. Hotel rates required to be posted. All hotels, motels, tourist homes or any other business engaged in over night lodging of guests shall post in a conspicuous place in each room thereof a notice plainly stating the price per day of each room and such establishments operating under the American Plan shall also post rates for meals to be served. (1976 Code, § 5-702)

9-603. Temporary change of rates. Hotel room rates shall be regulated in accordance with the provisions of Tennessee Code Annotated, § 62-7-101. In any instance where room rates are increased by the management of any hotel, motel, etc. and notice is served on the Division of Hotel and Restaurant Inspection as required by state law, a copy of such notice shall also be delivered to the city manager of Gatlinburg. If the period of increase indicated on the notice is less than a duration of seven (7) days, the copy to the city manager shall be marked "temporary".

If the city manager reasonably believes that the temporary increase is designed to profit from shortage of lodging facilities during this period, he shall request of the board of commissioners that a public hearing be held with proper notice of the time and place of the hearing to be given to interested parties. If the board of commissioners finds that the increase in room rates was not made in good faith and was made only for the purpose of profiteering because of a room shortage, they shall pass a resolution setting forth their findings in which resolution they shall request that the Division of Hotel and Restaurant Inspection take such action as may be necessary to prohibit unfair treatment for hotel guests during this period. (1976 Code, § 5-703, modified)

9-604. Register inspection by police. All hotels, motels, inns or other overnight lodging accommodations shall make available their register of guest at least monthly for inspection to any police officer of the city upon request. (1976 Code, § 5-704)

9-605. Eviction of disorderly persons. It shall be unlawful for any guest, or visitor of any guest, of any hotel, motel, inn or lodging house in this municipality to act in a disorderly manner, or destroying the property of any such hotel, motel, inn or lodging house, or cause a public disturbance in or upon such premises. "Premises" may include, but is not limited to, the guest rooms, meeting rooms, hallways, parking lot, or other common area of a hotel, motel, inn or lodging house. Furthermore, every owner or keeper of any hotel, motel, inn or lodging house in this municipality shall have the right to terminate the occupancy and evict any guest who violates this section; this remedy is in addition to any other fine, penalty or sanction of the law. Upon exercising his right of eviction, the owner or keeper of any hotel, motel, inn or lodging house shall return to the violator any pre-paid room fees, excluding the fee for the day of the actual eviction. Eviction shall not terminate any liability of the violator for room fees owed at the time of eviction. (1976 Code, § 5-705)

CHAPTER 7**SHOOTING GALLERIES****SECTION**

9-701. Shooting galleries permitted only in parks.

9-702. Permit required.

9-701. Shooting galleries permitted only in parks. It shall be unlawful for any person to operate a shooting gallery where live ammunition is used, within the corporate limits of the City of Gatlinburg at any place except in an amusement park which may be established by the city or private individuals. (1976 Code, § 5-801)

9-702. Permit to operate shooting gallery required. Any person desiring to install a shooting gallery in any such amusement park shall make application to the city manager for a permit. Before issuing a permit the city manager shall inspect such proposed installation to determine that reasonable safeguards are provided for the public. (1976 Code, § 5-802)

CHAPTER 8

MASSAGE ESTABLISHMENTS

SECTION

- 9-801. Definitions.
- 9-802. Permit required.
- 9-803. Exemptions.
- 9-804. Application for massage establishment license.
- 9-805. Application for massagist's permits.
- 9-806. Issuance of license or permit for a massage establishment.
- 9-807. Approval or denial of application.
- 9-808. Waiver of application requirements.
- 9-809. Multiple massage establishments.
- 9-810. Posting of license.
- 9-811. Register of employees.
- 9-812. Revocation or suspension of license.
- 9-813. Revocation of masseur or masseuse permit.
- 9-814. Facilities necessary.
- 9-815. Operating requirements.
- 9-816. Persons under age 18 prohibited on premises.
- 9-817. Alcoholic beverages prohibited.
- 9-818. Hours.
- 9-819. Employment of massagist.
- 9-820. Inspection required.
- 9-821. Unlawful acts.
- 9-822. Sale or transfer or change of location.
- 9-823. Name and place of business.
- 9-824. Transfer of license.
- 9-825. Violation and penalty.

9-801. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(1) "Employee." Any person over eighteen (18) years of age, other than a massagist, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

(2) "Licensee." The person to whom a license has been issued to own or operate a massage establishment as defined herein.

(3) "Massage." Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such

supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.

(4) "Massage establishment." Any establishment having a source of income or compensation derived from the practice of massage as defined in sub-section (3), and which has a fixed place of business where any person, firm, association or corporation engages in or carries on any of the activities as defined in sub-section (3).

(5) "Massagist, masseur or masseuse." Any person who, for any consideration whatsoever, engages in the practice of massage as defined in sub-section (3).

(6) "Outcall massage service." Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment as defined in sub-section (3).

(7) "Patron." Any person over eighteen (18) years of age who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.

(8) "Permittee." The person to whom a permit has been issued to act in the capacity of a massagist (masseur or masseuse) as defined herein.

(9) "Person." Any individual, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(10) "Recognized school." Any school or educational institution licensed to do business as a school or educational institution in the state in which it is located, or any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Inc., and which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study not less than seventy (70) hours before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

(11) "Sexual or genital area." Genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female. (1976 Code, § 5-901)

9-802. Permit required. (1) Business license required. No person shall engage in or carry out the business of massage unless he has a valid massage business license issued by the city pursuant to the provisions of this chapter for each and every separate office or place of business conducted by such person.

(2) Massagist's permit required. No person shall practice massage as a massagist, employee or otherwise, unless he has a valid and subsisting massagist's permit issued to him by the city pursuant to the provisions of this chapter. (1976 Code, § 5-902)

9-803. Exemptions. This chapter shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

(1) Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the State of Tennessee.

(2) Nurses who are registered under the laws of this state.

(3) Barbers and beauticians who are duly licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes. (1976 Code, § 5-903)

9-804. Application for massage establishment license. Every applicant for a license to maintain, operate or conduct a massage establishment shall file an application under oath with the City of Gatlinburg upon a form provided by the city and pay a nonrefundable annual license fee, which shall be \$100.00 per year or any part thereof. Each applicant shall be given a copy of this chapter upon request, prior to submitting an application. Licensees who have already paid the license fee for the current six (6) month period shall not be required to pay an additional fee hereunder. The application, once accepted, shall be referred to the city manager for investigation. Copies of the application shall within five (5) days also be referred to the Department of Community Development. The department shall within thirty (30) days inspect the premises proposed to be operated as a massage establishment and shall make written verification to the city manager concerning compliance with the codes of the City of Gatlinburg that they administer. The application shall further be referred to the police department for investigation of the applicant's character and qualifications. Each application shall contain the following information:

(1) A definition of service to be provided.

(2) The location, mailing address and all telephone numbers where the business is to be conducted.

(3) The name and residence address of each applicant (hereinafter all provisions which refer to applicant include any applicant which may be a corporation or partnership).

(a) If applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten per cent (10%) of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.

(b) If applicant is a partnership, the names and residence address of each of the partners, including limited partners, and the address of the partnership itself, if different from the address of the massage establishment.

(4) The two (2) previous addresses immediately prior to the present address of the applicant.

(5) Proof that the applicant is at least eighteen (18) years of age.

(6) Individual or partnership applicant's height, weight, color of eyes and hair, sex and date of birth.

(7) Copy of identification such as driver's license and social security card.

(8) One portrait photograph of the applicant at least two (2) inches by two (2) inches and a complete set of applicant's fingerprints which shall be taken by the chief of police or his agent. If the applicant is a corporation, one portrait photograph at least two (2) inches by two (2) inches of all officers and managing agents of said corporation and a complete set of the same officers' and agents' fingerprints which shall be taken by the chief of police or his agent. If the applicant is a partnership, one front-face portrait photograph at least two (2) inches by two (2) inches in size of each partner, and a complete set of each partner or limited partner's fingerprints which shall be taken by the chief of police or his agents.

(9) Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.

(10) The massage or similar business or license history of the applicant; whether such person, in previously operating in this or another city or state, has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

(11) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(12) The name and address of each massagist who is or will be employed in said establishment, including social security number and/or date of birth.

(13) Applicant must furnish a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught, provided, however, that if the applicant will not himself engage in the practice of massage as defined herein, he need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught.

(14) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in subsection (3) wherein the business or profession of massage is carried on.

(15) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(16) Authorization from the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(17) Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

(18) The names, current addresses and written statements of at least three (3) bonafide permanent residents of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the city, then the county, then the State of Tennessee, and lastly from the rest of the United States. These references must be persons other than relatives and business associates.

Upon the completion of the above provided form and the furnishing of all foregoing information the city manager shall accept the application for the necessary investigations. The holder of a massage establishment license shall notify the city manager of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs. (1976 Code, § 5-904)

9-805. Application for massagist's permits. Application for a massagist's business permit shall be made to the city manager in the same manner as provided above for massage establishment licenses, accompanied by the annual nonrefundable massagist's permit fee of \$75.00 per year or part thereof. Massagists who have already paid the permit fee for the current six (6) month period shall not be required to pay an additional fee hereunder. The application shall contain but not be limited to the following:

(1) The business address and all telephone numbers where the massage is to be practiced.

(2) Name and residence address, and all names, nicknames and aliases by which the applicant has been known, including the two previous addresses immediately prior to the present address of the applicant.

(3) Social security number, driver's license number, if any, and date of birth.

(4) Applicant's weight, height, color of hair and eyes and sex.

(5) Written evidence that the applicant is at least eighteen (18) years of age.

(6) A complete statement of all convictions of the applicant for any felony or misdemeanor or violation of a local ordinance, except misdemeanor traffic violations.

(7) Fingerprints of the applicant taken by the police department.

(8) Two front-face portrait photographs taken within thirty (30) days of the date of application and at least two (2) inches by two (2) inches in size.

(9) The name and address of the recognized school attended, the dates attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has completed not less than seventy (70) hours of instruction.

(10) The massage or similar business history and experience (10) years prior to the date of application, including but not limited to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or suspended and the reasons therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

(11) The names, current addresses and written statements of at least five (5) bona fide permanent residents other than relatives, of the United States that the applicant is of good moral character. If the applicant is able, the statement must first be furnished from residents of the city, then the county, then the State of Tennessee and lastly from the rest of the United States.

(12) A medical certificate signed by a physician, licensed to practice in the State of Tennessee, within seven (7) days of the date of application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this subsection shall be provided at the applicant's expense.

(13) Such other information, identification and physical examination of the person deemed necessary by the police chief in order to discover the truth of the matters hereinbefore required to be set forth in the application.

(14) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(15) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the city. (1976 Code, § 5-905)

9-806. Issuance of license or permit for a massage establishment.

The City of Gatlinburg shall issue a license for a massage establishment or a permit for a masseur or masseuse after ratification by the board of commissioners of the City of Gatlinburg, if all requirements for a massage establishment or massagist permit described in this chapter are met unless it finds:

(1) The correct permit or license fee has not been tendered to the city, and, in the case of a check, or bank draft, honored with payment upon presentation.

(2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations.

(3) The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business and/or the equipment used therein; and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses or convicted of any offense without the State of Tennessee that would have constituted any of the following offenses if committed within the State of Tennessee.

(a) An offense involving the use of force or violence upon the person of another that amounts to a felony.

(b) An offense involving sexual misconduct.

(c) An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony.

The City of Gatlinburg may issue a license or permit to any person convicted of any of the crimes described herein above if it finds that such conviction occurred at least five (5) years prior to the date of the application and that the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this section.

(4) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.

(5) The applicant has had a massage business, masseur, or other similar permit or license denied, revoked, or suspended by the city or any other state or local agency within five (5) years prior to the date of the application.

(6) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the business, is not over the age of eighteen (18) years. (1976 Code, § 5-906)

9-807. Approval or denial of application. The City of Gatlinburg shall act to approve or deny an application for a license or permit under this chapter within a reasonable period of time and in no event shall the City of Gatlinburg act to approve or deny said license or permit later than 90 days from the date that said application was accepted by the city manager. Every license or permit issued pursuant to this chapter will terminate at the expiration of one year from the date of its issuance unless sooner suspended or revoked. (1976 Code, § 5-907)

9-808. Waiver of application requirements. The City of Gatlinburg shall waive the requirements of §§ 9-801(10) and 9-805(9) of this chapter if the applicant furnishes satisfactory evidence that he or she attended not less than seventy (70) hours of instruction in a school within or without this state or in

any foreign country that provides education substantially equal to or in excess of the educational requirements of this chapter. (1976 Code, § 5-908)

9-809. Multiple massage establishments. Should any massage business have more than one location where the business of massage is pursued, then a permit, stating both the address of the principal place of business, and of the other location(s) shall be issued by the chief of police upon a tender of a license fee of \$100.00. Licenses issued for other locations shall terminate on the same date as that of the principal place of business, regardless of the date of issuance. (1976 Code, § 5-909)

9-810. Posting of license. (1) Every massagist shall post the permit required by this chapter in his work area.

(2) Every person, corporation, partnership or association licensed under this chapter shall display such license in a prominent place. (1976 Code, § 5-910)

9-811. Register of employees. The licensee or person designated by the licensee of a massage establishment shall maintain a register of all persons employed at any time as masseurs or masseuses and their permit numbers. Such register shall be available at the massage establishment to representatives of the City of Gatlinburg during regular business hours. (1976 Code, § 5-911)

9-812. Revocation or suspension of license. Any license issued for a massage establishment may be revoked or suspended by the City of Gatlinburg after notice and a hearing, for good cause, or in any case where any of the provisions of this chapter are violated or where any employee of the licensee, including a masseur or masseuse is engaged in any conduct which violates any of the state or local laws or chapters at licensee's place of business and the licensee has actual or constructive knowledge by due diligence. Such permit may also be revoked or suspended by the City of Gatlinburg after notice and hearing, upon the recommendations of the Director of the Sevier County Health Department that such business is being managed, conducted or maintained without regard to proper sanitation and hygiene. (1976 Code, § 5-912)

9-813. Revocation of masseur or masseuse permit. A masseur or masseuse permit issued by the chief of police shall be revoked or suspended where it appears that the masseur or masseuse has been convicted of any offense which would cause for denial of a permit upon an original application, has made a false statement on an application for a permit, or has committed an act in violation of this chapter. (1976 Code, § 5-913)

9-814. Facilities necessary. No license to conduct a massage establishment shall be issued unless an inspection by the City of Gatlinburg reveals that the establishment complies with each of the following minimum requirements.

(1) Construction of rooms used for toilets, tubs, steam baths and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with the City of Gatlinburg Building Code. Plumbing fixtures shall be installed in accordance with the city plumbing code.

(a) Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the City of Gatlinburg.

(b) Floors of wet and dryheat rooms shall be adequately pitched to one or more floor drains properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.)

(c) A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

(2) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instruments and materials shall be disinfected after use on each patron.

(3) Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(4) Toilet facilities shall be provided at convenient locations. When employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided for each sex. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(5) Laboratories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Laboratories or washbasins shall be provided with soap and a dispenser and with sanitary towels.

(6) All electrical equipment shall be installed in accordance with the requirements of the City Uniform Electrical Code. (1976 Code, § 5-914)

9-815. Operating requirements. (1) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.

(2) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

(3) All employees, including masseurs and masseuses, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the massage establishment. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing room shall open outward and shall be self-closing.

(4) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.

(5) No massage establishment granted a license under the provisions of this chapter shall place, publish or distribute or cause to be placed, published or distributed any advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any professional massage services.

(6) All patrons of the massage establishment shall register and the establishment shall keep and maintain a complete written record of all its patrons for a period of one year. (1976 Code, § 5-915)

9-816. Persons under age 18 prohibited on premises. No person shall permit any persons under the age of eighteen years to come or remain on the premises of any massage business establishments, as masseur, employee or patron, unless such person is on the premises on lawful business. (1976 Code, § 5-916)

9-817. Alcoholic beverages prohibited. No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverages on the premises of any massage business. (1976 Code, § 5-917)

9-818. Hours. No massage business shall be kept open for any purpose between the hours of 10:00 P.M. and 8:00 A.M. (1976 Code, § 5-918)

9-819. Employment of massagist. No person shall employ as massagist any person unless said employee has obtained and has in effect a permit issued pursuant to this chapter. (1976 Code, § 5-919)

9-820. Inspection required. The chief of police or his authorized representatives shall from time to time make inspection of each massage business establishment for the purposes of determining that the provisions of this chapter are fully complied with. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or hinder such officer in any manner. (1976 Code, § 5-920)

9-821. Unlawful acts. (1) Treatment of persons of opposite sex restricted. It shall be unlawful for any person holding a permit under this section to treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police pursuant to § 9-820. The requirements of this section shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.

(2) It shall be unlawful for any person, in a massage parlor to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

(3) It shall be unlawful for any person, in a massage parlor, to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, in a massage parlor, to expose the sexual or genital parts, or any portion thereof, of any other person.

(4) It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his or her body.

(5) It shall be unlawful for any person owning, operating or managing a massage parlor, knowingly to cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections (4), (2) or (3) of this section.

(6) It shall be further unlawful for any permittee under this chapter to administer massage on an outcall basis as defined in § 9-801(6). Such person shall administer massage solely within an establishment licensed to carry on such business under this chapter. Any violation of these provisions shall be deemed grounds for revocation of the permit granted hereunder. The restriction on outcall massage shall not apply to a permittee who performs outcall massage as defined herein upon a customer or client who, because of reasons of physical defects or incapacities or due to illness is physically unable to travel to the massage establishment. If any outcall massage is performed under this exception, a record of the date and hour of each treatment, and the name and address of the customer or client, and the name of the employee administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of said client or customer shall be kept by the licensee or person or employee designated by the licensee. Such records shall be open to inspection by officials charged with the enforcement of

public health laws. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by an employee of the business or the City of Gatlinburg shall be unlawful.

(7) It shall be unlawful for any massage service to be carried on within any cubicle, room, booth, or any area within a massage establishment which is fitted with a door capable of being locked. All doors or doorway coverings within a massage establishment shall have an unobstructed opening 6 inches by 6 inches in size capable of clear two-way viewing into and out of all cubicles, rooms or booths. The opening shall not be less than four and one-half feet from the floor of the establishment nor more than five and one-half feet from the floor. Toilets and cubicles used solely for the application of liquid or vapor baths shall have no such opening in the covering door or curtain, but shall be clearly marked as to purpose on the exterior door or curtain of said cubicle, room or booth. Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof, whenever such inspection is deemed necessary by the police or health departments. (1976 Code, § 5-921)

9-822. Sale or transfer or change of location. Upon sale, transfer or relocation of a massage establishment, the license therefor shall be null and void unless approved as provided in § 9-806 provided, however, that upon the death or incapacity of the licensee or any co-licensee of the massage establishment, any heir or devisee of a deceased licensee, or any guardian of an heir or devisee of a deceased licensee, may continue the business of the massage establishment for a reasonable period of time not to exceed sixty (60) days to allow for an orderly transfer of the license. (1976 Code, § 5-922)

9-823. Name and place of business. No person granted a license pursuant to this chapter shall operate the massage establishment under a name not specified in his license, nor shall he conduct business under any designation or location not specified in his license. (1976 Code, § 5-923)

9-824. Transfer of license. No license or permit shall be transferrable except with the consent of the City of Gatlinburg and ratified by the board of commissioners of the city. An application for such transfer shall be made in writing and shall be accompanied by fees prescribed in §§ 9-804 and 9-805. The written application for such transfer shall contain the same information as requested herein for initial application for the license or permit. (1976 Code, § 5-924)

9-825. Violation and penalty. Every person, except those persons who are specifically exempted by this chapter, whether acting as an individual owner, employee of the owner, operator or employee of the operator, or whether

acting as a mere agent or independent contractor for the owner, employee or operator, or acting as a participant or worker in any way directly or indirectly who gives massages or operates a massage establishment or any of the services defined in this chapter without first obtaining a license or permit and paying a fee to do so from the City of Gatlinburg or shall violate any provisions of this chapter shall be guilty of a misdemeanor and upon conviction, such person shall be punished by a fine not to exceed \$500 or by imprisonment for a period not to exceed six (6) months or by both such fine and imprisonment. (1976 Code, § 5-925)

CHAPTER 9**TATTOO PARLORS****SECTION**

9-901. Tattoo parlor requirements.

9-901. Tattoo parlor requirements. No person shall operate a tattoo establishment or engage in the practice as a tattoo operator or as a tattoo artist unless such person shall first obtain a permit from the Sevier County Health Department or its duly authorized agent, and further shall meet the requirements set forth in Tennessee Code Annotated, § 62-38-201, et seq. (1976 Code, § 5-1001, modified)

CHAPTER 10

CABLE TELEVISION

SECTION

9-1001. To be furnished under franchise.

9-1002. Federal regulations adopted.

9-1003. Franchising authority.

9-1001. To be furnished under franchise. Television shall be furnished for the municipality and its inhabitants under such franchise as the board of commissioners shall grant. The rights, powers, duties and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.¹ (1976 Code, § 13-301)

9-1002. Federal regulations adopted. Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 543, and Federal Communications Commission action under the authority of said Act certifying the City of Gatlinburg, Tennessee to regulate basic cable television service within the boundaries of the City of Gatlinburg; and for the purposes of regulating the rates charged to customers of any cable television operator franchised by the City of Gatlinburg, the regulations contained in Title 47 of the Code of Federal Regulations, Part 76, Subpart N, sections 76.900 through 76.985, are hereby adopted and incorporated by reference as a part of this code. (1976 Code, § 13-302)

9-1003. Franchising authority. Whenever the regulations cited in § 9-1002 refer to ‘franchising authority’, it shall be deemed to be a reference to the Board of Commissioners of the City of Gatlinburg, Tennessee. (1976 Code, § 13-303)

¹For details of franchises granted under this section, see Ords. #224, #226, #373, #390, #476, #523, #1002, #2256, and #2258 of record in the recorder’s office.

CHAPTER 11

PUBLIC RESTROOMS IN MALLS

SECTION

9-1101. Definition.

9-1102. Public restrooms in malls to be open.

9-1101. Definition. Mall is a shopping center, planned unit development, arcade, or any multi-tenant building on a single parcel of property which is internally separated or segregated into individual shops or similar subdivisions, each of which is, or appears to be, a separate and distinct business or function. (As added by Ord. #2218, Oct. 2000)

9-1102. Public restrooms in malls to be open. Public restrooms in malls are to be open and accessible to the public at all times during which the mall is open to the public. The requirements of this section shall not apply at times when vandalism is likely to occur, such as Halloween, or other special events or occasions, but such closures shall not exceed the reasonable duration of the event. (As added by Ord. #2218, Oct. 2000)