

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

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

- 9-101. "Going out of business" sales.
9-102. Pinball machines.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1984 Code, § 5-101)

9-102. Pinball machines. It shall be unlawful for any person who has in his possession a pinball machine, or any similar device known by any other name whatsoever, his employees, agents, servants, or other person for him, knowingly to permit any person under the age of eighteen (18) years to operate, play, or manipulate any such device, whether for amusement or otherwise. (1984 Code, § 5-102)

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
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9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1984 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations, provided further, farmers selling produce within the City of Mount Pleasant shall likewise be exempt from the detailed permitting requirements set forth in § 9-203 except for registering as a vendor and payment of the applicable permit fee. (1984 Code, § 5-202, as amended by Ord. #2009-895, Aug. 2009)

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

- (1) Name and physical description of applicant.

¹Municipal code references
Privilege taxes: title 5.

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

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

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

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

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

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

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) An administrative fee of one hundred dollars (\$100.00) per year for permitting under this chapter, which permit will be for the calendar year then in existence, January 1 through December 31, or ten dollars (\$10.00) per day for any day upon which any peddler, canvasser, solicitor, transient merchant, vendor or farmer plies his trade shall be paid to the city at the time of submission of an application for a permit. (1984 Code, § 5-203, as amended by Ord. #2002-825, April 2002, Ord. #2007-872, Oct. 2007, and Ord. #2009-895, Aug. 2009)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1984 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the board of commissioners. Such appeal shall be taken by filing with the city recorder within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1984 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the city in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this city and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1984 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1984 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1984 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1984 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1984 Code, § 5-210)

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

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

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

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

(3) When reasonably necessary in the public interest the city manager may suspend a permit pending the revocation hearing. (1984 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1984 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provision of this chapter for one (1) day shall expire at 12:00 P.M. on the date for which issued. Permits issued under the provisions of this chapter for a period of one (1) year shall expire on December 31 of the year in which issued. Applications for renewal shall be made in substantially the same form as an original application and shall include an administrative fee of ten dollars (\$10.00) if renewed for a period of one (1) day and one hundred dollars (\$100.00) if renewed for a period of one (1) year. Only so much of the application for renewal shall be completed as is necessary to reflect any conditions which have changed since the last application was submitted. (Ord. #2009-895, Aug. 2009)

9-214. Yard sales. There shall be no more than three (3) yard sales per year at any one individual residential property location within the city. The property owner, occupant, and/or lessor of any residential property location in which more than three (3) yard sales are conducted on such property in any given year shall receive a civil penalty of up to fifty dollars (\$50.00) for each yard sale in excess of three (3) per year. A yard sale may last up to seventy-two (72) consecutive hours, including the time to set up, conduct and disassemble the yard sale, and still be considered as one yard sale. (Ord. #2002-825, April 2002)

CHAPTER 3

CHARITABLE SOLICITATIONS

SECTION

- 9-301. Definitions.
- 9-302. Charitable solicitation permits required; exceptions.
- 9-303. Application for charitable solicitations permit.
- 9-304. Form of application.
- 9-305. Investigation by city of solicitations.
- 9-306. Standards for city's action in granting or denying applications for charitable solicitation permits.
- 9-307. Fee for charitable solicitations permit.
- 9-308. Charitable solicitations permit--form of; granting of is not endorsement by city; time limit on.
- 9-309. Solicitation without permit prohibited.
- 9-310. Hearing after denial of application for a permit; exceptions; decisions.
- 9-311. Revocation of permits; hearing; decision.
- 9-312. Report to be available from permit holder.
- 9-313. Notice of suspension or revocation of permit.
- 9-314. Religious solicitations; registration and certificate required.
- 9-315. Investigations of affairs of person soliciting for religious purposes and persons exempt from permit and certificate requirements; publication of findings.
- 9-316. Use of fictitious name, fraudulent misrepresentation and misstatements prohibited.
- 9-317. Judicial review.
- 9-318. Location, methods of solicitation on public streets.
- 9-319. Solicitation by means of coin or currency boxes or receptacles prohibited.
- 9-320. Limitation on residential solicitations.
- 9-321. Penalties.

9-301. Definitions. Whenever used in this chapter unless a different meaning clearly appears in the context:

(1) "Charitable" means and includes the words patriotic, philanthropic, social, service, welfare, benevolent, educational, civic, humane, eleemosynary, or fraternal, either actual or purported.

(2) "Charitable organization" means a group which is or holds itself out to be a benevolent, educational, philanthropic, humane, patriotic, eleemosynary, or fraternal organization or any person who solicits or obtains contributions solicited from the public for charitable purposes.

(3) "Contribution" means and includes the words alms, food, clothing, money, subscriptions, property, or donations under the guise of loaning money

or property or any promise or grant of any money or property of any kind or value.

(4) "Board" shall mean the Mount Pleasant city commission, or any committee so designated to act upon charitable solicitations permits.

(5) "City manager" means the city manager or his designated appointee of the City of Mount Pleasant, Tennessee.

(6) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

(7) "Professional solicitor" means any person who, for financial or other consideration, solicits contributions for, or on behalf of, a charitable organization, whether such a solicitation is performed personally or through his agents, servants, or employees or through such agents, servants, or employees specially employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such a person or a person who plans, conducts, manages, carries on or advises a charitable organization in connection with the solicitation of contributions. A salaried officer or an employee of a charitable organization maintaining a permanent establishment within the state shall not be deemed a professional solicitor. However, any salaried officer or employee of a charitable organization that engages in the solicitation of contributions for compensation in any manner for more than one charitable organization shall be deemed a professional solicitor. No attorney, investment counselor, or banker who advises any person to make a contribution to a charitable organization shall be deemed, as the result of such advice, to be a professional solicitor.

(8) "Promoter" means any person who promotes, manages, supervises, organizes, or attempts to promote, manage supervise, or organize campaign of solicitation.

(9) "Solicit" and "solicitation" mean the request directly or indirectly for money, credit, profit, financial assistance, or other thing of value upon the plea or representation that such money, credit, profit, financial assistance, other thing of value will be used for a charitable or religious purpose as those purposes are defined in this chapter. These words shall also mean and include the following methods of securing money, credit, profit, financial assistance, or other thing of value of the plea or representation that it will be used for a charitable or religious purpose as herein defined:

(a) Any oral or written request;

(b) The distribution, circulation, mailing, posting, or publishing of any handbill, written advertisement, or publication.

(c) Making of any announcement to the press, or to the radio, by telephone or telegraph concerning an appeal, assembly, athletic or sports event, bazaar, benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale or

social gathering, which the public is requested to patronize or to which the public is requested to make a contribution for any charitable or religious purpose connected therewith;

(d) The sale of, offer or attempt to sell, any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, merchandise, subscription, ticket or other thing in connection with which any appeal is made for charitable or religious purpose, where the name of a charitable or religious person is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that at the whole or any part of the proceeds from any such sale will go to or will be donated to any charitable or religious purpose. A solicitation as defined herein shall be deemed completed when made whether or not the person making the same receives any contribution or makes any sale referred to in this section. (1984 Code, § 5-301)

9-302. Charitable solicitation permits required; exceptions. No person shall solicit contributions personally or by means of coin or currency receptacles for any charitable purpose within the City of Mount Pleasant without a permit from the city authorizing such solicitations. Provided, however, that the provisions of this section shall not apply to any established person organized and operating exclusively for religious or charitable purposes and not operated for the pecuniary profit of any person if the solicitations by such established persons are conducted among the members thereof by other members or officers thereof, voluntarily without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies or services of any such established person. (1984 Code, § 5-302)

9-303. Application for charitable solicitations permit. An application for a permit to solicit as provided in § 9-302 above shall be made to the city through forms provided by the City of Mount Pleasant. Such applications shall be sworn to and filed with the city at least forty-eight (48) hours prior to the time at which the permit applied for shall become effective; and not more than thirty (30) days; provided, however, that the city may for good cause shown allow the filing of application less than the forty-eight (48) hours prior to the effective date of the permit applied therefor. The application herein required shall contain the following information, or in lieu thereof, a detailed statement of the reason or reasons why such information cannot be furnished:

(1) The name, address or headquarters of the person applying for the permits;

(2) If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers and a copy of the resolution, if any, authorizing such solicitation, certified to be a true and correct copy of the original by the officer having charge of the applicant's records;

(3) 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;

(4) A specific statement, supported by reasons and, if available, figures, showing the need for contributions to be solicited;

(5) The names and addresses of the person or persons who have authority to distribute funds;

(6) The names and addresses of the person or persons who will be in direct charge of conducting the solicitation and the names of all professional solicitors connected or to be connected with the proposed solicitation;

(7) An outline of the method or methods to be used in conducting the solicitation;

(8) At the time when such solicitations shall be made, giving the preferred dates for the beginning and the ending of such solicitation;

(9) The estimated cost of the solicitation;

(10) The amount of any wages, fees, commissions, expenses or emoluments to be expended or paid to any person in connection with such solicitations, and the names and addresses of all such persons.

(11) A financial statement for the last preceding fiscal year of any funds collected for charitable purposes by the applicant, said statement giving the amount of money so raised, together with the cost of raising it, and the final distribution, thereof to be prepared by a certified public accountant, a licensed public accountant and filed in the recorder's office;

(12) A full statement of the character and extent of the charitable work being done by the applicant within the area of the city;

(13) A statement that the actual cost of the solicitation will not exceed twenty-five percent (25%) of the total amount to be raised; or in the event the cost will exceed twenty-five percent (25%), a statement as to the reasons,

(14) A statement to the effect that if a permit is granted it will not be used or represented in any way as an endorsement by the City of Mount Pleasant, or by any department or officer thereof;

(15) Such other information as may be reasonably required by the city to determine the kind and character of the proposed solicitation and whether such solicitation is in the interest of, and not inimical to, the public welfare.

While, any application is pending, or during the term of any permit granted thereon, there is any change in fact, policy, or method that would alter the information given in the application, the applicant shall notify the city in writing thereof within seventy-two (72) hours after such change. (1984 Code, § 5-303)

9-304. Form of application. The City of Mount Pleasant shall provide each applicant a form which complies substantially with the following form: Exhibit 4. (1984 Code, § 5-304)

9-305. Investigation by city of solicitations. The city shall examine all applications filed under § 9-303 of this chapter and shall make, or cause to be made, such further investigation of the application and the applicant as the city manager or city commission shall deem necessary. Upon request by the city, the applicant shall make available for inspection all the applicant's books, records and papers at any reasonable time before the application is granted, during the time a permit is in effect, or after a permit has expired. The city manager or persons designated by him so to do may conduct any investigations into any applicant for a solicitations permit or as to any holder of a solicitations permit when it appears to said city or city manager or in response to complaints made known to the city that any of the provisions of this chapter are being violated or the applicant or holder of such a permit has engaged or is engaging in unscrupulous, dishonest, fraudulent or misleading practices in connection with solicitations of contributions. (1984 Code, § 5-305)

9-306. Standards for city's action in granting or denying applications for charitable solicitation permits. The city shall issue the permit provided for in § 9-308 hereof whenever it shall find the following facts to exist:

- (1) That all of the statements made in the application are true;
- (2) That the applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity;
- (3) That the control and supervision of the solicitation will be under responsible and reliable persons;
- (4) That the applicant has not engaged in any fraudulent transaction or enterprise;
- (5) That the solicitation will not be a fraud on the public;
- (6) That the solicitation is prompted solely by a desire to finance the charitable cause described in the application and will not be conducted primarily for private profit;
- (7) That the cost of raising the funds will be reasonable, and that all supplemental costs will be kept at a minimum. In no case shall a permit be granted unless a minimum of seventy-five percent (75%) of all monies collected goes directly to the charitable purpose for which the campaign is intended; provided, however, that in the case of special event benefits where performers are used, the city commission, in its discretion, may grant a permit where fifty percent (50%) of all monies collected go to the charitable purpose for which the campaign is intended; provided the ratios of expenses to gross revenues herein

set forth shall be waived by the board where special facts and circumstances are presented showing that a higher cost is not unreasonable.

(8) Nothing herein shall prohibit the solicitation by telephone for or on behalf of the applicant provided that the applicant states in his application the time during which solicitation will be made by telephone and the number of people being utilized in telephone solicitation and the amount of money paid the telephone solicitors. The city shall file in its office for public inspection, and shall serve upon the applicant by registered mail a written statement of the city commission's findings of fact and its decision upon each application.

(9) No person shall be granted a solicitations permit which has not qualified as a non-profit tax-exempt person or organization under section 501(c)(3) of the Internal Revenue Code and/or similar subsequently enacted Federal Internal Revenue law, or fails or refuses to file any report required by this chapter. (1984 Code, § 5-306)

9-307. Fee for charitable solicitations permit. Before a permit is issued there shall be paid to the city the sum of five dollars (\$5.00) as a permit fee. The fee will cover all activities listed in the application provided the activities listed can be completed within one year of the application. (1984 Code, § 5-307)

9-308. Charitable solicitations permit--form of; granting of is not endorsement by city; time limit on. Permits issued under this chapter shall bear the name and address of the person by whom the solicitation is to be made, the number of the permit, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the City of Mount Pleasant or by any of its departments, officers or employees of the purpose or of the person conducting the solicitation. All permits shall be signed by the city manager or the chief of police or by their duly authorized officer or agent. Permits may be granted for a period of ninety (90) days or for such other or additional periods as the city manager determines to be proper, but in no event shall the period for which the organization is authorized to solicit exceed one (1) year.

The form of the permit for certificate shall be as follows:

SOLICITATION PERMIT CITY OF MOUNT PLEASANT

Permit No. _____

(Non-transferrable)

Void after _____
date

Date _____

_____ (name) of _____ (address) is hereby authorized to solicit under the provisions of Mount Pleasant Municipal Code, Title 9, Chapter 3, adopted on the ___ day of _____, 20 __, from _____, 20 __, to _____, 20 __.

THE ISSUANCE OF THIS PERMIT DOES NOT CONSTITUTE AN
ENDORSEMENT BY THE CITY OF MOUNT PLEASANT OR BY ANY OF
ITS DEPARTMENTS, OFFICERS OR EMPLOYEES OF THE PURPOSE OR
PERSON CONDUCTING THIS SOLICITATION.

Any permit issued hereunder shall be non-transferable and said fact of non-transferability shall be clearly indicated on the permit. Each permit issued under this chapter shall be returned to the city manager within seventy-two (72) hours of the date of expiration together with all facsimile copies thereof. (1984 Code, § 5-308)

9-309. Solicitation without permit prohibited. No agent or solicitor shall solicit contributions for any charitable purpose or any person in the City of Mount Pleasant unless such person has been granted a permit under the provisions of this chapter. It is understood that the individual agents or solicitors are not required to have separate permits, but that the only permit required is the original permit issued to the person for whom the contributions are being solicited. Provided, however, that each agent or solicitor shall have in his possession a facsimile of the original permit issued to the organization for which he solicits. (1984 Code, § 5-309)

9-310. Hearing after denial of application for a permit; exceptions; decisions. Within five (5) days after receiving notification by registered mail that his application for a permit to solicit under this chapter has been denied, any applicant may file a written request for a public hearing on the application before the city commission, together with written exceptions to the findings of fact upon which the city manager, based its denial of the application. Upon the filing of such a request, the city commission shall fix a time and place for the hearing and shall notify the applicant thereof. The hearing shall be held within ten (10) days after the request is filed. At the hearing the applicant may present evidence in support of his application and exceptions. Any interested person may, in the discretion of the city commission, be allowed to participate in the hearing and present evidence in opposition to the application and exceptions. Within ten (10) days after the conclusions of the hearing the city commission shall render a written report either granting or denying the application for a permit. In this report the city commission shall state the facts upon which their decision is based, and their ruling upon any exceptions filed

to its original findings of fact upon the application. This report shall be filed in the recorder's office for public inspection and a copy shall be served by registered mail upon the applicant and all parties to the hearing. (1984 Code, § 5-310)

9-311. Revocation of permits; hearing; decision. Whenever it shall be shown, or whenever the city commission has knowledge, that any person to whom a permit has been issued under this chapter has violated any of the provisions of this chapter, or that any promoter, agent, professional solicitor, or solicitor of a permit holder has misrepresented the purpose of the solicitation, the city manager shall immediately suspend the permit and give the permit holder written notice by registered, special delivery, mail of a hearing to be held within two (2) days of such suspension to determine whether or not the permit should be revoked. This notice must contain a statement of the facts upon which the city manager has acted in suspending the permit. At the hearing the permit holder, any other interested person, may have the right to present evidence as to the facts upon which the city manager based the suspension of the permit, and any other facts which may aid the city commission in determining whether this chapter has been violated and whether the purpose of the solicitation has been misrepresented. If, after such hearing, the city commission finds that this chapter has been violated, where the purpose of the solicitation has been misrepresented, it shall within two (2) days after the hearing file in the recorder's office for public inspection and serve upon the permit holder and all interested persons who participated in the hearing, a written statement of the facts from which it based such finding and immediately revoke the permit. If, after such hearing the city commission finds that this chapter has not been violated and the purpose of the solicitation has not been misrepresented, it shall within two (2) days after the hearing, give to the permit holder a written statement cancelling the suspension of the permit and stating that no violation or misrepresentation was found to have been committed. (1984 Code, § 5-311)

9-312. Report to be available from permit holder. It shall be the duty of all persons issued permits under this chapter to furnish the City of Mount Pleasant upon request within ninety (90) days after the close of the organization's fiscal year, a detailed report and financial statement showing the amount raised by the solicitation, the amount expended in collecting such funds, including a detailed report of wages, fees, commissions, and expenses paid to any person in connection with such solicitation, and the disposition of the balance of the funds collected by the solicitation. This report shall be available for public inspection in the recorder's office at any reasonable time. (1984 Code, § 5-312)

9-313. Notice of suspension or revocation of permit. The chief of police shall be notified forthwith by the board of suspension or revocation of any permit issued under this chapter. (1984 Code, § 5-313)

9-314. Religious solicitations; registration and certificate required. No person shall solicit contributions for any religious purpose within the City of Mount Pleasant without a permit from the city. Application for a permit shall be made to the city upon forms provided by the City of Mount Pleasant. Such application shall be sworn to, or affirmed, and shall contain information required in § 9-303, except such application shall not contain the statement required in subsection (3) thereof, or, in lieu thereof, a statement of the reason or reasons why such information cannot be furnished.

If while any application is pending, or during the term of any permit granted thereon, there is any change in facts, policy, or method that will alter the information given in the application, the applicant shall notify the city in writing thereof within seventy-two (72) hours of such a change.

Upon receipt of such application, the city shall forthwith issue the applicant a certificate of registration. The certificate (or permit) shall remain in full force and effect for a period of six (6) months after the issuance thereof, and shall be renewed upon the expiration of this period upon the filing of a new application as provided for in this section. Such certificates are non-transferable, and the original and all facsimile thereof shall be returned to the city within one (1) week after the date of expiration of the solicitation. Certificates or permits of registration shall bear the name and address of the person by whom the solicitation is to be made, the number of the certificate, the date issued, and a statement that the certificate does not constitute an endorsement by the City of Mount Pleasant or by any of its departments, or officers, of the purpose or of the person conducting the solicitation. Provided, however, that the provisions of this section shall not apply to any established person organized and operating exclusively for religious purposes and not operating for pecuniary profit of any person if the solicitations by such an established person are conducted among members thereof by other members or officers thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at regular assemblies or services of any such established person. (1984 Code, § 5-314)

9-315. Investigations of affairs of person soliciting for religious purposes and persons exempt from permit and certificate requirements; publication of findings. The city commission is authorized to investigate the affairs of any person soliciting for religious purposes under a certificate issued under § 9-314, and the affairs of any person exempted from the requirement of a permit under § 9-314, and to make public their findings in order that the public may be fully informed as to the affairs of any said person. Said persons shall make available to the city commission, the city manager, or to any representative designated by the city commission in writing for such specific purpose, all books, records, or other information reasonably necessary to enable the board to fully and fairly inform the public of all facts necessary to

a full understanding by the public of the work and methods of operation of such persons; provided, that five (5) days before the public release of any findings under this section, the city commission must first serve a copy of its findings upon the person investigated and at the time of release of its findings, it must release a copy of any written statement said person may file with the board in explanation, denial, or confirmation of said findings. (1984 Code, § 5-315)

9-316. Use of fictitious name, fraudulent misrepresentation and misstatements prohibited. No person shall directly or indirectly solicit contributions for any purpose by misrepresentation of his name, occupation, financial condition, social condition or residence, and no person shall make or perpetrate any other misstatement, deception, or fraud in connection with any solicitation of any contribution for any purpose within the City of Mount Pleasant, or in any application or report filed under this chapter. (1984 Code, § 5-316)

9-317. Judicial review. The action of the city commission in connection with the issuance of a permit of any kind, including the revocation of a permit may be reviewed by the statutory writ of certiorari with the trial de novo as a substitute for an appeal, said writ of certiorari to be addressed to the Circuit or Chancery Court of Maury County. (1984 Code, § 5-317)

9-318. Location, methods of solicitation on public streets. The following procedures shall be strictly adhered to in permitting solicitations on public streets:

(1) Road blocks for solicitations shall be permitted only on Saturdays and/or Sundays and shall not be allowed before daylight or after dark.

(2) Only three (3) intersections shall be used for such solicitations. They are as follows:

(a) Main street at Hay Long Avenue.

(b) North Main Street at First Avenue.

(c) First Avenue at Greenwood.

(3) All parties involved in soliciting contributions shall wear white coveralls, coat or jacket, or a fluorescent vest.

(4) No person or organization shall solicit contributions on public streets as provided in this section without first obtaining a permit from the city authorizing such solicitations, and from time to time the city commission shall promulgate such rules and regulations as it deems advisable for the protection of the solicitors and the general public. A copy of such rules and regulations will be given to the representatives of the soliciting organizations at the time the permit is granted and failure to comply with them will subject the individuals and/or the organization to the loss of their permit.

(5) The city manager will notify the chief of police or his designee of the issuance of any permit under this section. (1984 Code, § 5-318)

9-319. Solicitation by means of coin or currency boxes or receptacles prohibited. No person shall solicit by means of coin or currency boxes or receptacles, in the course of a professional solicitation campaign within the City of Mount Pleasant except:

(1) When each such box or receptacle bears the persons permit number and is serially numbered and the city manager advised of the number and location of each; and

(2) When each such box or receptacle is the responsibility of a bona fide member, agent or solicitor of the soliciting person; and

(3) When such responsible person is required to pick up each box or receptacle at the end of the solicitation period; and

(4) When the use of such boxes and receptacles in the solicitation is expressly authorized by the city commission; and

(5) When such responsible person has no more than a reasonable number of such boxes or receptacles for which he must account. (1984 Code, § 5-319)

9-320. Limitations on residential solicitations. All door-to-door, telephone, or other residential zone solicitations as may be allowed, and as further allowed or specified in this chapter, shall adhere to the following:

(1) Such solicitations may be conducted only between the hours of 8:00 A.M. and 8:00 P.M.

(2) Such solicitations may only be conducted on Monday through Saturday. Sunday solicitations within residential zones are specifically prohibited, with the exceptions of when special application permits, approved by the city commission, have been obtained.

(3) Nothing herein shall apply to any established person or organized group in operating exclusively for religious or charitable purposes and not operated for the profit of any person if solicitations by such established person conducted among the members thereof, by other members or officers thereof, voluntarily without written information for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of services of any such established person. (1984 Code, § 5-320)

9-321. Penalties. Any person violating any of the provisions of this chapter, or filing, or causing to be filed, an application for a permit or certificate under this chapter containing false or fraudulent misstatements, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). Each day a solicitation occurs in violation of this chapter shall be deemed a separate offense. (1984 Code, § 5-321)

CHAPTER 4

POOL ROOMS¹

SECTION

- 9-401. Hours of operation regulated.
9-402. Minors to be kept out; exception.
9-403. Gambling etc., not to be allowed.

9-401. Hours of operation regulated. 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 at any time between the hours of 3:00 A.M. and 12:01 P.M. Sundays or between the hours of 3:00 A.M. and 6:00 A.M. on other days. (Ord. #92-738, April 1992)

9-402. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, to permit any person under the age of eighteen (18) years to enter and loiter about such premises or to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls. This section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1984 Code, § 5-502)

9-403. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire to permit any gambling or other unlawful or immoral conduct on such premises. (1996 Code, § 5-503)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise.

9-501. To be furnished under franchise. Cable television service shall be furnished to the City of Mount Pleasant and its inhabitants under franchise as the board of commissioners shall grant. The rights, powers, duties and obligations of the City of Mount Pleasant and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹

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

CHAPTER 6

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-601. Purpose and findings.
- 9-602. Definitions.
- 9-603. Classification.
- 9-604. License required.
- 9-605. Issuance of license.
- 9-606. Fees.
- 9-607. Inspection.
- 9-608. Expiration of license.
- 9-609. Suspension.
- 9-610. Revocation.
- 9-611. Judicial review.
- 9-612. No transfer of license.
- 9-613. Location restrictions.
- 9-614. Non-conforming uses.
- 9-615. Additional regulations for adult motels.
- 9-616. Additional regulations for escort agencies.
- 9-617. Additional regulations for nude model studios.
- 9-618. Additional regulations concerning public nudity.
- 9-619. Regulations pertaining to exhibition of sexually explicit films, videos and live performances.
- 9-620. Exterior portions of sexually oriented businesses.
- 9-621. Signage.
- 9-622. Sale, use, or consumption of alcoholic beverages prohibited.
- 9-623. Persons younger than eighteen prohibited from entry; attendant required.
- 9-624. Massages or baths administered by person of opposite sex.
- 9-625. Hours of operation.
- 9-626. Exemptions.
- 9-627. Notices.
- 9-628. Injunction.

9-601. Purpose and findings. 1. **Purpose.** It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent

nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

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

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

b. Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g., Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.

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

d. Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g.,

Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

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

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

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

h. As of February 28, 1993, there have been 2,521 reported cases of AIDS in the State of Tennessee.

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

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

k. The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,250,581 cases reported during the period 1993-1995. See e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

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

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

n. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those

activities and maintain those facilities. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.

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

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

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

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

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

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

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

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

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

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

y. The barring of such individuals from operation or employment in sexually oriented businesses for a period of ten (10) years for a previous felony conviction serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

z. The general welfare, health, morals, and safety of the citizens of this city will be promoted by the enactment of this chapter. (Ord. #98-796, Aug. 1998)

9-602. Definitions. 1. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

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

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

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

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

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

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

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

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

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

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

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

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

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

5. "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

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

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

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

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

11. "Establishment" means and includes any of the following:

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

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

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

d. The relocation of any sexually oriented business.

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

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

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

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

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

17. "Premises" means the real property which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to § 9-604 of this chapter.

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

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

- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

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

21. "Specified anatomical areas" means:

- a. The human male genitals in a discernibly turgid state, even if fully and opaquely covered;
- b. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

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

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

- b. For which:

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

- ii. Less than ten (10) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

- iii. Less than ten (10) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period;

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

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

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

24. "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date of the passage of the ordinance comprising this chapter.

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

- a. The sale, lease, or sublease of the business;
- b. The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
- c. The establishment of trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. #98-796, Aug. 1998)

9-603. Classification. Sexually oriented businesses are classified as follows:

1. Adult arcades;
2. Adult bookstores or adult video stores;
3. Adult cabarets;
4. Adult motels;
5. Adult motion picture theaters;
6. Adult theaters;
7. Escort agencies;
8. Nude model studios; and
9. Sexual encounter centers. (Ord. #98-796, Aug. 1998)

9-604. License required. 1. It shall be unlawful:

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

b. For any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid

sexually oriented business employee license issued to such employee by the director pursuant to this chapter.

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

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

Violation of any provision within this subsection shall constitute a misdemeanor.

2. An application for a sexually oriented business license must be made on a form provided by the city. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Prior to issuance of a license, the premises must be inspected by the health department, fire department, building department, and zoning department.

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

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

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

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

- a. The name, street address (and mailing address if different) of the applicant(s);
- b. A recent photograph of the applicant(s);
- c. The applicant's driver's license number, social security number, and/or his/her state or federally issued tax identification number;
- d. The name under which the establishment is to be operated and a general description of the services to be provided;
 - i. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state:
 - (1) The sexually oriented business's fictitious name; and
 - (2) Submit the required registration documents;
- e. Whether the applicant, or a person residing with the applicant, has been convicted, or is awaiting trial or pending charges, of a "specified criminal activity" as defined in § 9-802, subsection (22), and, if so, the "specified criminal activity" involved, the date, place, and jurisdiction of each;
- f. Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;
- g. Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;
- h. The single classification of license, as found in § 9-603, for which the applicant is filing;
- i. The telephone number of the applicant(s) and/or establishment;
- j. The address, and legal description of the tract of land on which the establishment is to be located;

k. If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the business license is sought;

l. If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license). If the expected startup date is to be more than ten (10) days following the date of issuance of the business license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;

m. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 9-609 hereunder.

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

a. Payment of the application fee in full;

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

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

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

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

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

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

h. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand (1,000) feet of the property to be certified; the property lines of any established religious institution/synagogue, school, public park or recreation area, or family-oriented entertainment business within fifteen hundred (1,500) feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted;

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

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

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

b. Age, and date and place of birth;

c. Height, weight, hair color, and eye color;

d. Present residence address and telephone number;

e. Present business address and telephone number;

f. Date, issuing state, and number of photo driver license, or other state issued identification card information;

g. Social Security Number; and

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

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

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

b. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other city, county, state, or country, has ever had any license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or

suspended. In the event of any such denial, revocation, or suspension, state the name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any other order of denial, revocation, or suspension shall be attached to the application.

c. A statement whether the applicant has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined in § 9-602(22) and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each.

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

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

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

11. A separate application and business license shall be required for each sexually oriented business classification as set forth in § 9-603.

12. The fact that a person possesses other types of state or city permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business or employee license. (Ord. #98-796, Aug. 1998)

9-605. Issuance of license. 1. Upon the filing of an application for a sexually oriented business employee license, the director shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for investigation to be made on the information contained in the application. The application process shall be completed within thirty (3) days from the date of the completed application. After the investigation, the director shall issue an employee license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

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

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

c. The applicant has been convicted of a "specified criminal activity" as defined in § 9-602(22) of this chapter;

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

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

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

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

3. A license issued pursuant to subsection (1) of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity" as defined in this chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-606.

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

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

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

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

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

e. An applicant or a person with whom the applicant is residing has been convicted of a "specified criminal activity" as defined in § 9-602(22);

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

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

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

5. A license issued pursuant to subsection (4) of this section, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the § 9-603 classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

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

7. A sexually oriented business license shall issue for only one classification, as set forth in § 9-603.

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

9. An applicant may appeal the decision of the director regarding a denial to the city commission by filing a written notice of appeal with the city secretary within fifteen (15) days after service of notice upon the applicant of the director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The director may, within fifteen (15) days of service upon him of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the city commission. After reviewing such memoranda, as well as the director's written decision, if any, and exhibits submitted to the director, the city commission shall vote either to uphold or overrule the director's decision. Such vote shall be taken within thirty (30) calendar days after the date on which the city secretary receives the notice of appeal. However, all parties shall be required to comply with the director's decision during the pendency of the appeal. Judicial review of a denial by the director and city commission may be made pursuant to § 9-611 of this chapter.

10. A license issued pursuant to subsection (4) of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity" as defined in this chapter, or committed any act

during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-606. (Ord. #98-796, Aug. 1998)

9-606. Fees. The annual fee for a sexually oriented business license, whether new or renewal, is five hundred dollars (\$500.00). The annual fee for a sexually oriented business employee license, whether new or renewal, is fifty dollars (\$50.00). These fees are to be used to pay for the cost of the administration and enforcement of this chapter. (Ord. #98-796, Aug. 1998)

9-607. Inspection. 1. An applicant or licensee shall permit representatives of the police department, health department, fire department, building department, or other city or state departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is open for business.

2. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he/she refuses to promptly permit such lawful inspection of the premises. (Ord. #98-796, Aug. 1998)

9-608. Expiration of license. 1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 9-604. Application for renewal shall be made at least thirty (30) days before but not more than forty-five (45) days before the expiration date.

2. When the director denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. (Ord. #98-796, Aug. 1998)

9-609. Suspension. The director shall suspend a license for a period not to exceed thirty (30) days if he determines that licensee or an employee of licensee has:

1. Violated or is not in compliance with any section of this chapter;
2. Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
3. Refused to allow prompt inspection of the sexually oriented business premises as authorized by this chapter;
4. With knowledge, permitted gambling by any person on the sexually oriented business premises. (Ord. #98-796, Aug. 1998)

9-610. Revocation. 1. The director shall revoke a license if a cause of suspension in § 9-609 occurs and the license has been suspended within the preceding twelve (12) months.

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

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

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

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

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

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

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

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

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

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

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

3. When the director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented license for one (1) year from the date revocation became effective. (Ord. #98-796, Aug. 1998)

9-611. Judicial review. After denial of an initial or renewal application by the director and city commission, or suspension or revocation of a license by the director, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (Ord. #98-796, Aug. 1998)

9-612. No transfer of license. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Ord. #98-796, Aug. 1998)

9-613. Location restrictions. Sexually oriented businesses shall be permitted in any commercial district provided that:

1. The sexually oriented business may not be operated within:

- a. Fifteen hundred (1,500) feet of a church, synagogue or regular place of religious worship;
- b. Fifteen hundred (1,500) feet of a public or private elementary or secondary school;
- c. Fifteen hundred (1,500) feet of a boundary of any residential district or residential lot;
- d. Fifteen hundred (1,500) feet of a public park;
- e. Fifteen hundred (1,500) feet of a licensed day-care center;
- f. Fifteen hundred (1,500) feet of an entertainment business that is oriented primarily towards children or family entertainment; or
- g. One thousand (1,000) feet of another sexually oriented business.

2. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business classified pursuant to § 9-603.

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

4. For the purposes of subsection (3) of this section, the distance between any two (2) sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located. (Ord. #98-796, Aug. 1998)

9-614. Non-conforming uses. 1. Any business lawfully operating on the effective date of the ordinance comprising this chapter that is in violation of the locational or structural configuration requirements of this chapter shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operated at a particular location is the conforming use and the later-established business(es) is non-conforming.

2. A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church,

synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, or child or family entertainment business within one thousand five hundred (1,500) feet of the sexually oriented business. This provision applies only to the renewal of a valid business license, and does not apply when an application of a business license is submitted after a business license has expired or has been revoked. (Ord. #98-796, Aug. 1998)

9-615. Additional regulations for adult motels. 1. Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this chapter.

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

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

4. Violation of subsection (2) of this section shall constitute a misdemeanor. (Ord. #98-796, Aug. 1998)

9-616. Additional regulations for escort agencies. 1. An escort agency shall not employ any person under the age of eighteen (18) years.

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

3. Violation of this section shall constitute a misdemeanor. (Ord. #98-796, Aug. 1998)

9-617. Additional regulations for nude model studios. 1. A nude model studio shall not employ any person under the age of eighteen (18) years.

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

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

4. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (Ord. #98-796, Aug. 1998)

9-618. Additional regulations concerning public nudity. 1. It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a state of nudity in a sexually oriented business, or depicts specified sexual activities in a sexually oriented business.

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

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

4. It shall be a misdemeanor for an employee, while semi-nude, to touch a patron or the clothing of a patron, or for a patron to touch a semi-nude employee or the clothing of a semi-nude employee. (Ord. #98-796, Aug. 1998)

9-619. Regulations pertaining to exhibition of sexually explicit films, videos and live performances. 1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, other video reproduction, or live performance that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

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

was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

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

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

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

e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

f. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (e) of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to subsection (1) of this section.

g. No viewing room may be occupied by more than one person at a time.

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

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

j. No licensee shall allow an opening of any kind to exist between viewing rooms or booths.

k. No person shall make any attempt to make an opening of any kind between the viewing booths or rooms.

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

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

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

2. A person having a duty under subsection (a) through (n) of this section commits a misdemeanor if he/she, with knowledge, fails to fulfill that duty. (Ord. #98-796, Aug. 1998)

9-620. Exterior portions of sexually oriented businesses. 1. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

2. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

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

a. The establishment is a part of a commercial multi-use center; and

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

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

5. A violation of any provisions of this section shall constitute a misdemeanor. (Ord. #98-796, Aug. 1998)

9-621. Signage. 1. Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign

for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

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

- a. Not contain any flashing lights;
- b. Be a flat plane, rectangular in shape;
- c. Not exceed seventy-five (75) square feet in area; and
- d. Not exceed ten (10) feet in height or ten (10) feet in length.

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

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

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

- a. Be a flat plane, rectangular in shape;
- b. Not exceed twenty (20) square feet in area;
- c. Not exceed five (5) feet in height and four (4) feet in width;

and

- d. Be affixed or attached to any wall or door of the enterprise.

6. The provisions of item (a) of subsection (2) and subsection (3) and (4) shall also apply to secondary signs.

7. Violation of any provision of this section shall constitute a misdemeanor. (Ord. #98-796, Aug. 1998)

9-622. Sale, use, or consumption of alcoholic beverages prohibited. 1. The sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.

2. Any violation of this section shall constitute a misdemeanor. (Ord. #98-796, Aug. 1998)

9-623. Persons younger than eighteen prohibited from entry; attendant required. 1. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.

2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented

business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

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

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

3. Violation of this section shall constitute a misdemeanor.

(Ord. #98-796, Aug. 1998)

9-624. Massages or baths administered by person of opposite sex.

It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this section shall constitute a misdemeanor. (Ord. #98-796, Aug. 1998)

9-625. Hours of operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, and one o'clock (1:00) A.M. and twelve o'clock (12:00) P.M. on Sundays. (Ord. #98-796, Aug. 1998)

9-626. Exemptions.

It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated:

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

2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. (Ord. #98-796, Aug. 1998)

9-627. Notices.

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

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

3. It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the director in writing of any change of residence or mailing address. (Ord. #98-796, Aug. 1998)

9-628. Injunction. A person who operates or causes to be operated a sexually oriented business without a valid business license or in violation of § 9-613 of this chapter is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation. (Ord. #98-796, Aug. 1998)