

TITLE 5

BUSINESSES, PROFESSIONS, AND OCCUPATIONS<sup>1</sup>

CHAPTER

1. TAXICABS.
2. CHARITABLE SOLICITATIONS.
3. PEDDLERS, ETC.
4. [DELETED.]
5. MOBILE HOME PARKS.
6. CARNIVALS AND EXHIBITIONS.
7. SHELBYVILLE WRECKER ORDINANCE.
8. YARD SALES.
9. SEXUALLY-ORIENTED BUSINESSES.
10. CABLE TELEVISION--CUSTOMER SERVICE AND CONSUMER PROTECTION STANDARDS.
11. FIRE, BURGLARY AND ROBBERY ALARMS.

CHAPTER 1

TAXICABS<sup>2</sup>

SECTION

- 5-101. Terminals to be provided.
- 5-102. Solicitation of passengers on streets.
- 5-103. Parking restricted.
- 5-104. Drivers to use direct routes.
- 5-105. Taxicabs not to be used for illegal purposes.
- 5-106. Miscellaneous prohibited conduct by drivers.
- 5-107. Transportation of more than one passenger at the same time.
- 5-108. Mechanical condition of vehicles.
- 5-109. Cleanliness of vehicles.
- 5-110. Liability insurance required.

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<sup>1</sup>For liquor and beer business regulations in this code, see title 2; for regulations relating to building, plumbing, and wiring, etc., see chapter 6 in this title and also title 4 in this code; for privilege tax provisions, etc., see title 6; for dairy regulations, see section 8-407; for restrictions on posting notices or advertisements and making noise to attract attention, see title 10; and, for zoning provisions, see title 11.

<sup>2</sup>For privilege tax provisions, see title 6.

5-111. Vehicles exempt from the provisions of this chapter.

5-112. License and permit required for drivers.

5-101. Terminals to be provided. It shall be unlawful for any taxicab company to operate within the city unless it maintains a terminal station or depot. (1979 code, § 5-101)

5-102. Solicitation of passengers on streets. No driver or agency of any taxicab company shall be allowed to solicit passengers upon the streets of the city. (1979 code, § 5-102)

5-103. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not unreasonably to interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1979 code, § 5-103)

5-104. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1979 code, § 5-104)

5-105. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1979 code, § 5-105)

5-106. Miscellaneous prohibited conduct by drivers. It shall be unlawful or any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise unreasonably disturb the peace, quiet, and tranquility of the municipality in any way. (1979 code, § 5-106)

5-107. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1979 code, § 5-107)

5-108. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger

compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1979 code, § 5-108)

5-109. Cleanliness of vehicles. All taxicabs operated in the city shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1979 code, § 5-109)

5-110. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of one hundred thousand dollars (\$100,000.00) for bodily injury or death to any one person, three hundred thousand dollars (\$300,000.00) for bodily injuries or death to more than one person which are sustained in the same accident, and one hundred thousand dollars (\$100,000.00) for property damage resulting from any one accident. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least five (5) days' written notice is given by the insurer to both the insured and the city recorder.

The insurance policy shall be filed with the city recorder who shall issue a receipt therefor. The receipt shall show the policy number, the name of the insurance company, the name of the insured, and the make, color, style, and motor or manufacturer's serial number of each vehicle covered by the policy. A copy of such receipt shall be kept in each insured taxicab and shall be exhibited by the driver to any police officer upon request and to any person or such person's agent, who is injured or damaged by such vehicle. (1979 code, § 5-111)

5-111. Vehicles exempt from the provisions of this chapter. The provisions of this chapter shall not be applicable to motor busses or other motor vehicles engaged in the carriage of passengers or their luggage for hire that are subject to the jurisdiction of the Public Service Commission of the state, nor to motor busses operated in the city under franchises granted by the city where other provisions are made by ordinance or otherwise for the carrying of liability insurance or the filing of bonds against liability for death, personal injuries, or property damage. (1979 code, § 5-112)

5-112. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license. (1979 code, § 5-113)

## CHAPTER 2

CHARITABLE SOLICITATIONS

## SECTION

- 5-201. Permit required.
- 5-202. Prerequisites for a permit.
- 5-203. Denial of a permit.
- 5-204. Exhibition of permit.
- 5-205. Permit fee.
- 5-206. Road blocks.

5-201. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable, educational, or religious purpose without a permit from the city recorder authorizing such solicitation. Neither shall any organization conduct a road block upon the streets of the City of Shelbyville without a permit from the city recorder, upon approval by the chief of police, nor hold any demonstrations. (1979 code, § 5-201)

5-202. Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable, educational or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

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

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

(3) The applicant has not engaged in any fraudulent transaction or enterprise, nor has the applicant created any disturbance, or any breach of the peace in any other city where the applicant was granted the right to solicit funds or hold road blocks in that city.

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1979 code, § 5-202)

5-203. Denial of a permit. Any applicant for a permit to make charitable, educational, or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1979 code, § 5-203)

5-204. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1979 code, § 5-204)

5-205. Permit fee. A permit fee of twenty five dollars (\$25.00) will be charged each applicant to defray the cost of investigation which will be conducted by the chief of police. (1979 code, § 5-205)

5-206. Road blocks. Hereafter it shall be unlawful for any person or group of persons, or members of charitable organizations, or any other firm or corporation to solicit funds upon any of the public streets or highways of the City of Shelbyville, Tennessee by conducting a road block or by any other method whereby vehicles traveling upon a street or highway are stopped and charitable solicitations or contributions are sought unless a permit has been issued by the city recorder. No permit shall be issued where the road block is determined by the chief of police to be adverse to the health, safety and welfare of the traveling public. (1979 code, § 5-206)

## CHAPTER 3

PEDDLERS, ETC.<sup>1</sup>

## SECTION

- 5-301. Definitions.
- 5-302. Permit required.
- 5-303. Exemptions.
- 5-304. Application for permit.
- 5-305. Issuance or refusal of permit.
- 5-306. Appeal.
- 5-307. Bond.
- 5-308. Loud noises and speaking devices.
- 5-309. Use of streets.
- 5-310. Exhibition of permit.
- 5-311. Policemen to enforce.
- 5-312. Revocation or suspension of permit.
- 5-313. Reapplication.
- 5-314. Expiration and renewal of permit.
- 5-315. Violation and penalty.
- 5-316. Severability clause.

5-301. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

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

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the city or from door to door, business to business,

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<sup>1</sup>Municipal code references

Privilege taxes: title 6.

Trespass by peddlers, etc.: section 10-801.

place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

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

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

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

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

(5) "Transient vendor"<sup>1</sup> means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those

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<sup>1</sup>State law reference

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

The definition of "transient vendors" is taken from Tennessee Code Annotated, section 67-4-709(a)(19). Note also that Tennessee Code Annotated, section 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, section 67-4-709(b).

premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (as replaced by Ord. #508, June 1994)

5-302. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor 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. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-303. 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, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-304. 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.
- (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 properly to evaluate the applicant's moral reputation and business responsibility.
- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance, and, if so, the nature of the offense and the punishment or penalty assessed therefor.



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

(10) At the time of filing the application, a fee of fifty and no/100 dollars (\$50.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994).

5-305. 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 applicants 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 section 5-206. The city recorder shall keep a permanent record of all permits issued. (as amended by Ord. #477; replaced by Ord. #505, March 1994; and renumbered by Ord. #508, June 1994)

5-306. 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 mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-307. Bond. Every permittee shall file with the city recorder a corporate surety or cash 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 the City of Shelbyville 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 resident 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 resident 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. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-308. 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 of any goods, wares, or merchandise which such permittee proposes to sell. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-309. Uses of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted to operate in a congested area which such operation might impede or inconvenience the public use of such street. 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. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-310. Exhibition of Permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (as replaced by Ord. #505, March 1994 and renumbered by Ord. #508, June 1994)

5-311. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (as replaced by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-312. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen, after notice and hearing for any of the following 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, itinerant merchant, or itinerant vendor.
- (b) Any violation of this chapter.
- (c) Conviction of any crime or misdemeanor.

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

(2) Notice of the hearing for revocation of a permit shall be given by the 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 it is reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (as added by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-313. 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. (as added by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-314. Expiration and renewal of permit. Permits issued under the provisions of his chapter shall expire on the same date that the permittee's privilege license expires. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (as added by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-315. Violation and Penalty. Violations of any provisions of this chapter shall upon conviction be punished by a fine of not less than two and no/100 dollars (\$2.00) nor more than fifty and no/100 dollars (\$50.00) and in addition thereto shall pay all costs. Each separate day such violation is continued shall constitute a separate offense. (as added by Ord. #505, March 1994, and renumbered by Ord. #508, June 1994)

5-316. Severability clause. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. (as added by Ord. #505, March 1994, and replaced by Ord. #508, June 1994).

CHAPTER 4

[DELETED.]

This chapter was deleted by Ord. #506, April 1994.

## CHAPTER 5

MOBILE HOME PARKS<sup>1</sup>

## SECTION

- 5-501. Definitions.
- 5-502. License and temporary permit.
- 5-503. License fees and temporary permit fees.
- 5-504. Application for license.
- 5-505. Supervision.
- 5-506. Revocation of license.
- 5-507. Posting of license and temporary permit.

5-501. Definitions. As used in this chapter:

- (1) "Dependent mobile home" means a mobile home which does not have a flush toilet and a bath or shower.
- (2) "Independent mobile home" means a mobile home which has a flush toilet and a bath or shower.
- (3) "Licensee" means any person licensed to operate and maintain a mobile home park under the provisions of this chapter.
- (4) "Mobile home" means any factory-manufactured mobile home as defined in T.C.A. § 65-36-202(4), (6), and (7).
- (5) "Mobile home park" means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.
- (6) "Mobile home space" means a plot of ground within a mobile home park designed for the accommodation of one mobile home.
- (7) "Multiple dwelling" means any structure designed and intended to accommodate more than one family and includes but is not limited to duplex buildings, group houses, and apartment buildings.
- (8) "Natural or artificial barrier" means any river, pond, canal, railroad, levee, embankment, fence, or hedge.
- (9) "Park" means mobile home park.
- (10) "Permittee" means any person to whom a temporary permit is issued to maintain or operate a mobile home park under the provisions of this chapter.
- (11) "Person" means any natural individual, firm, trust, partnership, association, or corporation. (1979 code, § 5-701)

5-502. License and temporary permit. (1) It shall be unlawful for any person to maintain or operate a mobile home park within the limits of the city,

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<sup>1</sup>For license and tax provisions, see section 5-703 and title 6 in this code.

unless such person shall first obtain a license therefor, except that the maintenance or operation of a mobile home park in existence on the effective date of this chapter may be continued under a temporary permit for such period of time and under such conditions as are hereinafter prescribed.

(2) A temporary permit, upon written request therefor, shall be issued by the city building inspector for every mobile home park in existence upon the effective date of this chapter, permitting the park to be maintained and operated during the period ending 180 days after the effective date of this chapter, without being subject to the provisions of this chapter, except such of the provisions as are made expressly applicable to such permittees.

(3) The term of the temporary permit shall be extended, upon written request, for not to exceed one additional period of 180 days, if (a) the permittee shall have filed application for a license in conformity with section 5-504 within 90 days after the effective date of this chapter, (b) the permittee is of good moral character, and the park plans and specifications accompanying the application for license comply with all provisions of this chapter and all other applicable ordinances and statutes, (c) the permittee shall have diligently endeavored to make the existing park conform fully to the plans and specifications submitted with the application, and (d) failure to make the existing park conform fully to such plans and specifications shall have been due to causes beyond the control of permittee. (1979 code, § 5-702)

5-503. License fees and temporary permit fees. (1) The annual license fee for each mobile home park shall be \$10.00 per annum plus \$2.00 per space.

(2) The fee for transfer of a license shall be \$5.00.

(3) The temporary permit fee for each 180-day period shall be one-half of the annual license fee prescribed in subsection (1) of this section. (1979 code, § 5-703)

5-504. Application for license. (1) Application for initial license. The application for an initial mobile home park license shall be filed with and issued by the city building inspector. The application shall be in writing, signed by the applicant and shall include the following:

(a) The name and address of the applicant.

(b) The location and legal description of the mobile home park.

(c) A complete plan of the park in conformity with the requirements of the zoning ordinance.<sup>1</sup>

(d) Plans and specifications of all buildings, improvements and facilities constructed or to be constructed with the mobile home park.

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<sup>1</sup>Ordinance No. 436, titled "Zoning Ordinance of Shelbyville, Tennessee," and any amendments thereto, are of record in the office of the city recorder.

(e) Such further information as may be requested by the city building inspector to enable him to determine if the proposed park will comply with legal requirements.

The application and all accompanying plans and specifications shall be filed in triplicate. The city building inspector shall investigate the applicant and inspect the application and the proposed plans and specifications. If the applicant is of good moral character, and the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all provisions of this chapter and all other applicable ordinances and statutes, the city building inspector and Shelbyville Planning Commission shall approve the applications, and upon completion of the park according to the plans, the city building inspector shall approve the application and issue the license.

(2) Application for renewal license. Upon application in writing by a licensee for a renewal of a license and upon payment of the annual license fee, the city building inspector shall issue a certificate renewing such license for another year.

(3) Application for transfer of license. Upon application in writing for transfer of a license and payment of the transfer fee, the city building inspector shall issue a transfer if the transferee is of good moral character. (1979 code, § 5-704)

5-505. Supervision. The licensee or permittee, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities, and equipment in a clean, orderly, and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this chapter to which the licensee or permittee is subject. (1979 code, § 5-715)

5-506. Revocation of license. The city building inspector may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this chapter. After such conviction, the license may be reissued if the circumstances leading to the revocation have been remedied and the park is being maintained and operated in full compliance with the law. (1979 code, § 5-716)

5-507. Posting of license and temporary permit. The license certificate or temporary permit shall be conspicuously posted in the owner's office or on the premises of the mobile home park at all times. (1979 code, § 5-717)

## CHAPTER 6

CARNIVALS AND EXHIBITIONS

## SECTION

- 5-601. License required.
- 5-602. Definitions.
- 5-603. Requirements for license.
- 5-604. Licenses--fees.
- 5-605. Insurance.
- 5-606. Revocation, suspension, limitation of permit.
- 5-607. Posting license.
- 5-608. Form of license application.
- 5-609. Sunday closing.
- 5-610. Admittance of officers.
- 5-611. Medicine shows.
- 5-612. Order--crowding.
- 5-613. Inspections.
- 5-614. Indecent shows.
- 5-615. Exhibitions of criminals.
- 5-616. Riots.
- 5-617. Health requirements.
- 5-618. Traffic congestion.
- 5-619. Appeal of denial of issuance of permit.
- 5-620. Expiration and renewal of permit.

5-601. License required. It shall be unlawful to conduct or operate within the city any exhibitions or carnivals which are open to the public without first securing a license therefore; provided, that this section shall not be held to apply to those amusements or exhibitions which are specifically licensed in other sections of this chapter or other chapter in this code. (as added by ord. No. 421)

5-602. Definitions. The term "exhibitions" as used in this chapter shall be held to mean and include circuses, menageries, carnivals, side shows and other similar amusements enterprises which are open to the public and for admission to which a fee is charged.

The term "carnival" as used herein shall mean and include amusement activities, rides, merry-go-rounds, booths for the conduct of games of skill, food dispensing facilities and sideshows. A carnival shall not include gambling devices, games of chance, lotteries, punch boards or other activities in violation of city ordinances. (as added by ord. No. 421)

5-603. Requirements for license. In addition to other requirements set forth herein the applicant shall furnish suitable evidence of his intention and



ability to comply with the following conditions: The operator and sponsor of the carnival or exhibition shall each be wholly responsible for maintaining order, and for keeping the site clean, free of trash, papers and other debris. Trash containers in adequate number shall be placed in convenient locations for the use of the public. No placard or signs shall be placed on any telephone poles and any signs posted shall be removed after the show. Adequate safeguards shall be placed to protect both operators and the general public from inadvertently coming into contact with moving parts, belts, motor gears, electrical switches and other possible or potential hazards and all rides shall have state approval (if required). (as added by ord. No. 421)

5-604. Licenses--fees. Satisfactory application being made and approved by the city manager, the city clerk shall thereafter issue such license upon the payment of a license fee of \$100.00.

Provided further, that no fee shall be charged for any amusement, exhibition or carnival where the same is sponsored by or given for the benefit of any religious, educational, charitable, social or fraternal organization. (as added by ord. No. 421)

5-605. Insurance. No license shall be issued for conducting an exhibition or carnival until the applicant therefor has placed on file with the city clerk a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with such carnival or exhibition. Such insurance shall be in the minimum amount required by the State of Tennessee. (as added by ord. No. 421)

5-606. Revocation, suspension, limitation of permit. (1) Permits issued, or to be issued under the provisions of this chapter may be revoked or denied by the city manager for the following causes: (a) any act inconsistent with good business responsibility, including but not limited to fraud, misrepresentation contained in the application for permit, or during the course of carrying on of the business, (b) any such act in violation of the other ordinances of the City of Shelbyville or a breach of the peace, (c) any action that constitutes a menace to the health safety and general welfare of the public. (as added by ord. No. 421)

5-607. Posting license. It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a prominent place on the premises used for such business at all times. (as added by ord. No. 421)

5-608. Form of license application. The applicant shall provide the following information. The undersigned hereby applies for a license to conduct the business of in the City of Shelbyville, and states the following facts are true:

1. Name under which business is to be conducted \_\_\_\_\_.

2. Name of applicant. (If a corporation, give names and addresses of president and secretary; if a partnership, give names and addresses of all partners). \_\_\_\_\_.

3. President residence \_\_\_\_\_.

4. Address of business to be conducted \_\_\_\_\_

\_\_\_\_\_.

5. Nature of business. \_\_\_\_\_.

6. Residence of applicant during past five years (if individual). \_\_\_\_\_

\_\_\_\_\_.

7. The applicant has never had a license to conduct the business herein described denied or revoked, excepting as noted. \_\_\_\_\_

\_\_\_\_\_.

8. The applicant (including all partners or the officers, if a corporation) has never been convicted of a felony. \_\_\_\_\_.

The undersigned makes these statements above to induce the City of \_\_\_\_\_ to issue the license herein applied for, and agrees to comply with all laws and ordinances of the city applicable to the subject matter thereof.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
(If applicant is a corporation, show office held by person signing. (as added by ord. No. 421)

5-609. Sunday closing. it shall be unlawful to operate or permit the operation of any carnival between the hours of 12 o'clock midnight on Saturday and 2 p.m. on Sunday of any week. (as added by ord. No. 421)

5-610. Admittance of officers. Sufficient members of the police department shall be admitted free of charge to all exhibitions for the purpose of preserving and maintaining order. (as added by ord. No. 421)

5-611. Medicine shows. It shall be unlawful to give or conduct any medicine show or performance in connection with or for the purpose of attracting prospective buyers of, or crowds for the purpose of lectures on or demonstrations of any tonic, medicine, remedy or alleged specific for human ailments without having first secured a permit therefor. Applications for such permits shall state thereon the name, nature and contents of the article to be promoted or offered for sale; such applications shall be referred to the chief of police and no permit shall be issued where such tonic, medicine or remedy is harmful for use without the advice of a physician or consists in whole or part of harmful habit forming drugs or narcotics. (as added by ord. No. 421)

5-612. Order--crowding. The audience of any amusement show, or theatrical performance must be orderly and quiet at all times, and it shall be

unlawful for any person attending such amusement, show or theatrical performance to create a disturbance in the audience.

It shall be unlawful to permit or gather such a crowd to witness any such amusement or show as to create a dangerous condition because of fire or other risks. (as added by ord. No. 421)

5-613. Inspections. It shall be the duty of the chief of police and the fire marshal to see that every exhibition, amusement, theatrical performance or other public show or amusement is inspected by a member of the police and of the fire department, and to insure conformity with the provisions concerning such amusements. (as added by ord. No. 421)

5-614. Indecent shows. It shall be unlawful for any person, firm or corporation to present, exhibit, conduct or take part in any indecent show, theatrical performance, play, motion picture, exhibition or other form of public amusement or show. (as added by ord. No. 421)

5-615. Exhibitions of criminals. It shall be unlawful to exhibit any criminal or the body of any criminal or any person who shall have become notorious because of the commission of a crime in any theatrical performance, exhibit, carnival or other public place. (as added by ord. No. 421)

5-616. Riots. It shall be unlawful to present any public amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance. (as added by ord. No. 421)

5-617. Health requirements. The license issued pursuant to this section shall be subject to the licensee being fully inspected by any health official. Adequate public restroom facilities for both men and women shall be provided, and same shall be maintained in a clean, disinfected and usable manner at all times. All food shall be prepared and served in accordance with state requirements. All food, toilet and other facilities which will affect the health of citizens shall be subject to inspection at all times, and violation of any regulations shall be grounds for termination or suspension of license until any violation is remedied. (as added by ord. No. 421)

5-618. Traffic congestion. The licensee and/or its sponsor shall be required to maintain a free flow of travel, and parking shall be provided so as to maintain same. The issuance of this license shall be subject to the condition that proper parking and/or the location is suitable to provide a free flow of traffic. Rejection of the license may be based solely and alone upon a creation of traffic congestion. (as added by ord. No. 421)

5-619. Appeal of denial of issuance of permit. Any person aggrieved by the action of the city manager in the denial of a permit shall have the right to appeal to the city council. Such an appeal shall be taken by filing with the city manager within 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 an appeal and notice of the time and place for such hearing shall be given to the applicant. The notice shall be in writing and shall be mailed to applicant at his last known address at least 5 days prior to the date set for the hearing, or shall be delivered by a police officer in the same manner as a summons, at least 3 days prior to the date of the hearing. (as added by ord. No. 421)

5-620. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the privilege license expires. Permits issued to those who are not subject to a privilege tax shall be issued for 12 months. An application for renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (as added by ord. No. 421)

CHAPTER 7

SHELBYVILLE WRECKER ORDINANCE<sup>1</sup>

SECTION

5-701. Purpose.

5-702. Definitions.

5-703. Solicitation prohibited.

5-704. Non-consent towing agreements.

5-705. Rules and procedures.

5-706. Police to determine vehicle's need for wrecker service.

5-707. Police to determine wrecker service when owner is unable or unwilling to designate.

5-708. Police prohibited from influencing owner's choice of wrecker service.

8-709. Police may request wrecker service for any vehicle in violation of city regulations or ordinances.

5-710--5-724. Deleted.

5-701 Purpose. The purpose of this chapter is to provide for regulations and procedures for the removal of motor vehicles from the streets of the city when a vehicle is parked, stopped or standing in violation of any regulation or ordinance of the City of Shelbyville, or is parked, stopped or standing so as to obstruct the orderly flow of traffic, or is disabled by an accident and constitutes an obstruction to traffic and its immediate removal or storage for safekeeping is necessary in the interest of safety and protection of property, and to provide for regulations and procedures for wrecker service operators who are engaged by the city to remove such vehicles. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-702 Definitions. (1) "City schedule wrecker service" means any wrecker service that has entered into an agreement with the City of Shelbyville to provide non-consent towing.

(2) "Street" means any street, alley, public place, square, highway, or thoroughfare within the corporate limits of the city.

(3) "Non-consent tow" or "non-consent towing" is towing without the prior consent or authorization of the owner or operator to be towed or towing in an emergency situation when the owner or operator does not request a particular towing company or cannot arrange for the towing of their vehicle in such emergency situation in accordance with Shelbyville Police Department regulations, rules and procedures.

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<sup>1</sup>A copy of the Shelbyville Police Department Wrecker Service Rules and Regulations is available in the city recorder's office.

(4) "Wrecker service" means the towing, transporting, conveying, or removal of vehicles from one point to another within the area of the municipal government, or a business engaged in such activities. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-703 Solicitation prohibited. No person shall solicit in any manner, direct or indirect, on the streets of the city the business of towing any vehicle which is wrecked or disabled on a public street, regardless of whether the purpose of such solicitation is the towing, removing, repairing, wrecking, storing, trading, or purchasing such vehicle. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-704 Non-consent towing agreements. The city shall enter into agreements with wrecker services to provide non-consent towing for the Shelbyville Police Department as a city schedule wrecker service. Any wrecker service that is on the Tennessee Highway Patrol wrecker schedule or that meets all the requirements for inclusion on THP wrecker schedule and that meets the requirements of the current State of Tennessee Department of Public Safety Towing Service Standards Manual and the regulations established under this ordinance is eligible to be a city schedule wrecker service. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-705 Rules and procedures. In order to provide for the public safety, the Shelbyville Police Department shall establish regulations, rules and procedures for the operation of contract wrecker services. Such regulations or any changes thereto shall not be effective until approved by resolution of the Shelbyville City Council. The regulations shall provide for the following:

- (1) Insurance requirements for contract wrecker services;
- (2) Owner, operator, and driver requirements;
- (3) Impound lot requirements;
- (4) Wrecker service record keeping and reporting;
- (5) Wrecker classifications and equipment requirements;
- (6) Operating procedures; and,
- (7) Such other regulation, rule or procedure as required to protect the public welfare. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-706 Police to determine vehicle's need for wrecker service. Police officers investigating an accident shall determine if any vehicle involved in a collision or accident on a public street is unable to proceed safely under its own power, or if the owner or driver thereof is physically unable to drive such vehicle, or if the vehicle's location is a hazard to public safety, and if so, the officers shall ask the owner or driver thereof to designate a wrecker service to

remove the vehicle. The officer shall communicate the name of the designated wrecker service immediately to the police dispatcher, who shall call the designated company and request that it send a wrecker to the scene of the accident. (as added by Ord. #494, Aug. 1993, replaced by Ord. #744, July 2004, and Ord. #840, Jan. 2008)

5-707 Police to designate wrecker service when owner is unable or unwilling to designate. In the event a vehicle requires removal from the city streets, and the owner or driver is unable or unwilling to designate a wrecker service for such removal, police officers will communicate that to the police dispatcher who will contact a city schedule wrecker service to remove the vehicle. In the event a wrecker service designated by the owner or driver of the vehicle is unable to respond to the request within the time required for response in the Shelbyville police regulations governing contract wrecker services, the dispatcher will contact a city schedule wrecker service to remove the vehicle. (as deleted by Ord. #744, July 2004 and replaced by Ord. #840, Jan. 2008)

5-708 Police prohibited from influencing owner's choice of wrecker service. No police officer investigating or present at the scene or site of any wreck, accident, or collision on a street shall, directly or indirectly, either by word, gesture, sign or otherwise, recommend to any person the name of any particular wrecker service or repair business, or attempt to influence in any manner the decision of any person in choosing a wrecker or repair service. (as deleted by Ord. #744, July 2004 and replaced by Ord. #840, Jan. 2008)

5-709 Police may request wrecker service for any vehicle in violation of city regulations or ordinances. Whenever any vehicle is parked, stopped or standing in violation of any regulation or ordinance of the City of Shelbyville, or is parked, stopped or standing so as to obstruct the orderly flow of traffic, police officers directing its removal shall request a wrecker service from the police dispatcher who will contact a city schedule wrecker service for such removal. (as deleted by Ord. #744, July 2004 and replaced by Ord. #840, Jan. 2008)

5-710--5-724. Deleted. (as deleted by Ord. #744, July 2004)

## CHAPTER 8

YARD SALES

## SECTION

- 5-801. Definitions.
- 5-802. Number of sales allowed.
- 5-803. Property permitted to be sold.
- 5-804. Hours of operation.
- 5-805. Display of sale property.
- 5-806. Advertising.
- 5-807. Persons exempted from chapter.
- 5-808. Violations and penalty.

5-801. Definitions. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein.

(1) "Garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance (municipal code reference, zoning ordinance: title 11, chapter 2) for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage", "lawn", "yard", "attic", "porch", "carport", "room", "backyard", "patio", "flea market", or "rummage sale". This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased or secured for resale or obtained on consignment. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-802. Number of sales allowed. It shall be unlawful for any person within the corporate limits of the city to conduct more than four (4) three day yard sales in a residential area in any calendar year. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-803. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, any property other than personal property. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)



5-804. Hours of operation. Garage sales shall be limited in time from sunrise to sunset on three consecutive days. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-805. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-806. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

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

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

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

(3) Removal of signs. Signs must be removed at the close of the garage sale activities. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-807 Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

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

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the City of Shelbyville, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

5-808. Violations and penalty. Any person found guilty of violating the terms of this chapter shall be subject to a penalty to be determined by the city

court for each offense. (as added by Ord. #513, July 1994, and replaced by Ord. #517, Oct. 1994)

## CHAPTER 9

SEXUALLY-ORIENTED BUSINESSES

## SECTION

- 5-901. Purpose and findings.
- 5-902. Definitions.
- 5-903. Sexually oriented business licensing board.
- 5-904. Inspections and inspectors.
- 5-905. License required.
- 5-906. Application for license.
- 5-907. Standards for issuance of license.
- 5-908. Permit required.
- 5-909. Application for permit.
- 5-910. Standards for issuance of permit.
- 5-911. Fees.
- 5-912. Display of license or permit.
- 5-913. Renewal of license or permit.
- 5-914. Revocation of license or permit.
- 5-915. Hours of operation.
- 5-916. Responsibilities of the operator.
- 5-917. Prohibitions and unlawful sexual acts.
- 5-918. Penalties and prosecution.
- 5-919. Invalidity of part.
- 5-920. Denial of applications or renewals.

5-901. Purpose and findings. This part shall be known as the "Sexually-Oriented Registration Act of 1998."

(1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order 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 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 material.

(2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in reports made available to the council, 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), *Barnes v. Glen Theatre, Inc.*, 111 S. Ct. 2456 (1991), *Triplett*

Grille, Inc. V. City of Akron, 40 f. 3d 129 (6th cir. 1994), and Northend Cinema Inc. V. Seattle, 585 P. 2d 1153 (Wash. 1978), and on studies in other communities including, not not limited to Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Chattanooga, Tennessee; Memphis, Tennessee; and Beaumont, Texas; and also on findings found in the Report of Attorney General's Working Group on the Regulation of Sexually Oriented businesses, (June 7, 1989, State of Minnesota), the council finds:

(a) Sexually oriented businesses in the city 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 the owners of these establishments responsible for the activities that occur on the premises.

(b) Certain employees of sexually oriented businesses defined in this chapter as adult theatres and cabarets engage in higher incident of certain types of sexually oriented behavior at these businesses than employees of other establishments.

(c) Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows, as defined under this chapter as adult book stores, adult novelty shops, adult video stores, adult motion picture theatres, or adult arcades.

(d) Offering and providing such space, encourages such activities, which create unhealthy conditions.

(e) Persons frequent certain adult theatres, adult arcades, adult cabarets, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

(g) As of June 30, 1995, there have been 5,672 reported cases of persons with AIDS and 6,277 persons testing positive for the HIV antibody test in the State of Tennessee.

(h) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.

(i) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-million cases being reported in 1990.

(j) The surgeon general of the United States in his report of October 22, 1986 has advised the American public that AIDS and HIV

infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(k) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(l) 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.

(m) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(n) In Memphis/Shelby County, Tennessee, deputies and police officers investigating exotic dance clubs found numerous obscenity violations, physical contact between fully nude dancers and patrons including fondling of dancers and full sexual intercourse, a variety of other sexual contact including fellatio, solicitation offered (sex for hire), undercover narcotics buys, different acts of violence, runaway juveniles and allegations of white slavery. Another officer testified that 90-95% of the dancers use drugs (cocaine, crack, methamphetamine), that clubs do not report crimes because they do not want police involved, and that he saw three girls performing five sex acts in 15 minutes. Further, the Manager of Infectious Disease at Shelby County Health Department testified that in one topless club, out of 9 females arrested, 8 tested positive for VD and that there is a very close relationship between prostitution and these clubs.

(o) Out of 26 females arrested at BOTTOMS UP, a topless bar in Memphis, 14 had a medical record at the Shelby County STD Clinic.

(p) According to Chattanooga City Police investigating exotic dance clubs since 1993, there has been a considerable amount of bodily contact between patrons and dancers, dancers sometimes: sit in patron's lap; place their breast against the patron's face; while physical contact is maintained gyrate in such a manner as to stimulate sexual intercourse; breathe heavily into a patron's groin area; bite at, gnaw at, as well as fondle, the genitals of male patrons; pulled patrons into their vaginal areas; allowed patrons to spoon feed themselves with whipped cream that had been spread on the breasts, vaginal, and anal areas of the dancer; and have had patrons place a peeled banana between their legs while female "dancers" have eaten the banana.

(q) The Federal Court for Eastern District of Tennessee at Chattanooga found that Chattanooga's adult cabarets displayed tactile,

body contact, sexual experiences tantamount to prostitution as defined in TCA 39-13-512(5).

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

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

(t) Requiring that entertainers at adult oriented establishments: not appear in a state of full nudity, without interfering in their right to free expression, according to the latest restrictive means possible as found in *Barnes v. Glen theatre, Inc.*, and *Triplett Grille, Inc., v. City of Akron*; not dance closer to patron than six feet; not mingle with patrons as found in *city of New Orleans v. Kiefer* 164 Southern Reporter 2d 3367 (Supreme Court of Louisiana 1964); not solicit any pay or gratuity from any patron as found in *KEV v. Kitsap County* 793 F.2d 1053 (9th Cir. 1986); and not fondle any patron or other entertainer or allow any other entertainer or patron to fondle them will help reduce the incidence of certain types of criminal behavior on the premises of sexually oriented businesses which leads to the transition of sexually oriented diseases.

(u) The general welfare, health, and safety of the citizens of the City of Shelbyville will be promoted by the enactment of this chapter. (Ord. #596, April 1998)

5-902. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Sexually-oriented businesses or sexually-oriented establishments," includes, but is not limited to, "sexually-oriented bookstores," "sexually-oriented motion picture theaters," "sexually-oriented mini-motion picture establishments," "sexually-oriented cabarets," "escort agency," "sexual encounter center," "massage parlor," "rap parlor," "sauna," and further means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing sexually-oriented entertainment to a member of the public, a patron or a member, when such sexually-oriented entertainment is held, conducted, operated or maintained for a profit, direct or indirect. A "sexually-oriented business or sexually-oriented establishment" further includes without being limited to, any "sexually oriented entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as a sexually-oriented entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort or any other term of like import.

(2) "Sexually-oriented bookstore" means an establishment having as a substantial or significant portion of its stock in trade, books, films, video cassettes, magazines, computer software, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below), or an establishment with a segment or section devoted to the sale or display of such material.

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

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

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

(6) "Board" means the Sexually-oriented Establishment Licensing Board of the City of Shelbyville, Tennessee.

(7) "Employee" means a person who performs any service on the premises of a sexually-oriented business or a sexually-oriented establishment on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not 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.

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

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

(10) "Operator" means any person, partnership, or corporation operating, conducting or maintaining a sexually-oriented business or sexually oriented establishment.

(11) "Specified sexual activities" means:

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

(12) "Specified anatomical areas" means:

- (a) Less than completely and opaquely covered;
  - (i) Human genitals, pubic region;
  - (ii) Buttocks;
  - (iii) Female breasts below a pint immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

(13) "Escort" means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any private quarters of a place of public resort.

(a) A "service oriented escort" is an escort which:

- (i) Operates from an open office.
- (ii) Does not employ or use an escort runner; and
- (iii) Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau which so advertises; and
- (iv) Does not offer or provide sexual conduct.

(b) A "sexually oriented escort" is an escort which:

- (i) Employs as an employee, agent, or independent contractor an escort bureau runner; or
- (ii) Works for, as an agent, employee, contractor, or is referred to a patron by a sexually oriented escort bureau; or
- (iii) Advertises, that sexual conduct will be provided, or works for, as an employee, agent or independent contractor or is referred to a patron by an escort bureau which so advertises; or



(iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual for a fee in addition to the fee charged by the escort bureau; or

(v) Works as an escort without having a current valid permit issued under this chapter, in his or her possession at all times while working as an escort; or

(vi) Accepts a fee from a patron who has not first been delivered a contract.

(14) "Escort service" means a person as defined herein, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts.

(a) A "service oriented escort bureau" is an escort bureau which:

(i) Maintains an open office at an established place of business; and

(ii) Employs or provides only escorts which possess valid permits issued under this chapter; and

(iii) Does not use an escort bureau runner; and

(iv) Does not advertise that sexual conduct will be provided to a patron.

(b) A "sexually oriented escort bureau" is an escort bureau which:

(i) Does not maintain an open office; or

(ii) Employs as an employee, agent or independent contractor, uses an escort bureau runner; or

(iii) Advertises that sexual conduct will be provided, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron; or

(iv) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron; or

(v) Employs, contracts with or provides or refers escorts who do not possess valid permits issued under this chapter; or

(vi) Does not deliver contracts to every patron or customer; or

(vii) Employs, contracts with a sexually oriented escort or refers or provides to a patron, a sexually oriented escort.

(15) "Open office" means an office at the escort service from which the escort business is transacted and which is open to patrons or prospective patrons during all hours during which escorts are working, which is managed or operated by an employee, officer, director or owner of the escort service having authority to bind the service to escort and patron contracts and adjust patron and consumer complaints.

(16) "Person" means an individual, partnership, limited partnership, firm, corporation or association.

(17) "Specified criminal acts" means sexual crimes against children, sexual abuse, rape, indecent exposure, distribution of obscenity, distribution of obscenity or harmful material to minors, prostitution, pandering, or tax violations, possession or distribution of child pornography, engaging in organized criminal activity, gambling, distribution of controlled substances, or similar offenses described above under the criminal code or penal code of other states or countries.

(18) "Sexual stimulation" means to excite or arouse the prurient interest or to offer or solicit acts of "sexual conduct" as defined in this chapter.

(19) "Sexual gratification" means "sexual conduct or sexual activity" as defined in this chapter.

(20) "Sexual conduct or sexual activity" means the engaging in or the commission of an act of sexual intercourse, oral-oral contact, oral-genital contact, or the touching of the sexual organs, pubic region, buttock or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

(21) "Specified services" means massage services private dances, private modeling, or acting as an "escort" as defined in this chapter.

(22) "Sexual encounter center" means a business or commercial enterprise that, as one of its primary 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) Physical contact between male and female persons and/or persons of the same sex when one or more of the persons exposes to view of the persons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely by translucent material.

(23) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services where one or more of the employees exposes to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

(24) "Rap parlor" means an establishment or place which has as one of its principle business purposes the providing of nonprofessional conversation or similar service for adults where employees appear in a state of nudity or semi-nude condition as defined and/or displayed to patrons within said establishment "specified anatomical areas" or perform for the benefit of the patron(s) "specified sexual activities."

(25) "Sauna" means an establishment or place which has as one of its principle business purposes the providing of steam baths and which features employees in a state of nudity or semi-nude condition (as defined), and/or

displays to patrons with said establishment "specified anatomical areas" or perform for the benefit of the patron(s) "specified sexual activities."

(26) "Nudity" means the showing of the bare human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast below a horizontal line across the top of the areola at its highest point with less than a fully opaque covering, or the showing of the covered male genitals in a discernable turgid state. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or part.

(27) "Semi-nude" means a state of dress in which clothing covers no more than the male or female genitals and pubic region, and of the female breast below a horizontal line across the top of the areola at its highest point with less than a fully opaque covering.

(28) "Mingle" means to associate or unite, as things by interspersions of persons by ties of relationship or to fraternize or join in company. Mingle does not include the serving of beverages or goods to a patron by an employee during the normal course of bartending or waiting. (Ord. #596, April 1998)

5-903. Sexually oriented business licensing board. (1) Membership and duties:

(a) The board shall consist of five members, who shall have been residents of Shelbyville for not less than one year, and who shall continue to be eligible so long as they reside in the city, appointed by the mayor, and approved by the city council. The board members shall serve at the pleasure of the mayor and city council until the expiration of their terms.

(b) At least one of the five members shall be an attorney, and one of the five members shall be a health provider.

(c) Of the five members first appointed, two shall be appointed for a term of two years, and two shall be appointed for a term of three years, and one shall be appointed for a term of four years. Thereafter, each member shall be appointed for a term of four years, and shall serve until his successor is appointed. Any vacancy other than the expiration of terms shall be filled for the unexpired term.

(d) The board shall select a chair and vice-chair from among its members and the chair shall notify interested persons and members of board meetings. The chair and vice-chair shall serve for a period of one year, or until a successor shall have been chosen.

(e) A majority of the members to which the board is entitled shall constitute a quorum.

(f) The board shall meet each month at a time fixed by the board, and may hold such special meetings as may be necessary.

(g) Minutes shall be kept of the meetings in permanent form and a record shall be kept of the action of the board with respect to every

application for a license and/or permit. The concurring vote of a majority of the members present and voting shall be necessary for the granting, revoking, suspending, or any other action involving licenses or permits.

(h) The board shall serve without compensation.

(2) Powers and duties:

(a) The board shall have jurisdiction over the licensing, regulating and controlling of all sexually-oriented businesses as provided herein, located within the City of Shelbyville.

(b) The board has the power to subpoena witnesses to testify before the board. (Ord. #596, April 1998)

5-904. Inspection and inspectors. (1) The board is empowered to employ suitable person(s) as inspectors which inspectors shall not hold any service status. The inspectors shall serve without compensation.

(2) In order to effectuate the provisions of this part, the board, its authorized representative or the Shelbyville Police Department, is empowered to conduct investigations of persons engaged in the operation of any sexually-oriented business and inspect the license of the operators and establishment for compliance. Refusal of an operation or establishment to permit inspections shall be grounds for revocation, suspension or refusal to issue licenses provided by this part. (Ord. #596, April 1998)

5-905. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter,<sup>1</sup> no sexually-oriented business shall be operated or maintained in the City of Shelbyville without first obtaining a license to operate issued by the City of Shelbyville Sexually-Oriented Business Licensing Board.

(2) A license may be issued only for one (1) sexually-oriented business located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) sexually-oriented establishment must have a license for each. No building, premises, structure or other facility that contains any sexually-oriented establishment shall contain any other kind of sexually-oriented establishment.

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

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

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<sup>1</sup>This chapter was taken from Ordinance #596 which passed final reading April 9, 1998.

(5) All existing sexually-oriented businesses at the time of the passage of this chapter<sup>1</sup> must submit an application for a license within one hundred twenty (120) days of the passage of this section on second and final reading. If a license is not issued within said one-hundred-twenty day period, then such existing sexually-oriented establishment shall cease operations.

(6) No license shall be issued by the board unless the applicant certifies, by proof satisfactory to the board, that the applicant has satisfied the rules, regulations and provisions of the zoning board. No sexually-oriented business may begin to operate except within the confines of a C-2 zoning district as defined under the zoning laws of the City of Shelbyville, pursuant to Ordinance No. \_\_\_\_\_.<sup>2</sup> (Ord. #596, April 1998)

5-906. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the city recorder. The application shall be filed in triplicate with and dated by the city recorder. A copy of the application shall be distributed within five (5) days by the city recorder to the Shelbyville Police Department, the board chairman, and to the applicant.

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

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least 21 years of age.
- (c) The applicant's height, weight, color of eyes and hair.
- (d) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (e) Whether the applicant previously operated in this or any other county, city or state under a sexually-oriented business license or similar business license; whether the applicant has ever had such a license revoked or suspended. The reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (f) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (g) The address of the sexually-oriented business to be operated by the applicant.

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<sup>1</sup>This chapter was taken from Ordinance #596 which passed final reading April 9, 1998.

<sup>2</sup>Ordinance #596 (April 1998), from which these provisions were taken, has a blank here.

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

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

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

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

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

(4) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the board. (Ord. #596, April 1998)

5-907. Standards for issuance of license. (1) To receive a license to operate a sexually-oriented business, an applicant must meet the following standards:

(a) If the applicant is an individual:

(i) The applicant shall be at least twenty-one (21) years of age;

(ii) The applicant shall not have had his or her license revoked within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application;

(iv) The applicant shall not have been convicted of a "specified criminal act," as defined in section 5-902, for which:

(A) Less than two (2) years have elapsed since the date conviction if the conviction is for a misdemeanor offense;

(B) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense.

(C) Less than five (5) years have elapsed since the date of conviction if the conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period.

(D) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under section 5-906(2) shall be at least twenty-one (21) years of age;

(ii) All officers directors and stockholders required to be named under section 5-906(2) shall not have had his or her license revoked within five (5) years immediately preceding the date of the application;

(iii) No officer, director, or stockholder required to be named under section 5-906(2) shall have been convicted of or pleaded nolo contendere to any violation of this part within five (5) years immediately preceding the date of the application;

(iv) The applicant shall not have been convicted of a "specified criminal act," as defined in section 5-902, for which:

(A) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense.

(B) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense.

(C) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period.

(D) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

(2) No license shall be issued unless the Shelbyville Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the board no later than twenty (20) days after the date of the application.

(3) An applicant who has been convicted of any "specified criminal activities" may not be denied a permit based on those convictions once the time period required in section 5-907 has elapsed. (Ord. #596, April 1998)

5-908. Permit required. In addition to the license requirements previously set forth for owners and operators of "sexually-oriented business," no person shall be an employee or entertainer in a sexually-oriented establishment without first obtaining a valid permit issued by the City of Shelbyville. (Ord. #596, April 1998)

5-909. Application for permit. (1) Any person desiring to secure a permit shall make application to the city recorder. The application shall be filed in triplicate with and dated by the city recorder. A copy of the application shall be distributed within five (5) days of the city recorder to the Shelbyville Police Department, board chairman, and to the applicant.

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

(a) Name and address, including all aliases.

(b) Written proof that the individual is at least twenty-one (21) years of age.

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

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

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

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

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Shelbyville Police Department, the board shall notify the applicant that his/her application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the



conclusion of such additional investigations, the board shall advise the applicant in writing whether the application is granted or denied.

(4) If an additional investigation is held, upon the expiration of the thirtieth (30) day, the applicant shall be permitted to begin operating as an employee or entertainer for which the permit is sought, unless or until, the board or its authorized representative notifies the applicant of a denial of the application and states the reason(s) for that denial.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the board. (Ord. #596, April 1998)

5-910. Standards for issuance of permit. (1) The applicant shall be at least twenty-one (21) years of age.

(2) The applicant shall not have his or her permit revoked within two (2) years immediately preceding the date of the application.

(3) The applicant shall not have been convicted of a "specified criminal act," as defined in section 5-902, for which:

(a) Less than two (2) years have elapsed since the date of conviction if the conviction is for a misdemeanor offense.

(b) Less than five (5) years have elapsed since the date of conviction if the conviction is for a felony offense.

(c) Less than five (5) years have elapsed since the date of conviction for two (2) or more misdemeanor offenses occurring within any twelve (12) month period.

(d) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

(4) An applicant who has been convicted of any "specified criminal activities" may not be denied a permit based on those convictions once the time period required in section 5-910(1)(c) has elapsed.

(5) No permit shall be issued until the Shelbyville Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the board not later than twenty (20) days after the date of the application. (Ord. #596, April 1998)

5-911. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for the license. If the application is denied, none of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, none of the fee shall be returned. (Ord. #596, April 1998)

5-912. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the sexually-oriented business.

(2) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Shelbyville Police Department, the board or their inspectors. (Ord. #596, April 1998)

5-913. Renewal of license or permit. (1) Every license issued pursuant to this article will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make applications to the city recorder. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city recorder. A copy of the application for renewal shall be distributed within five (5) days by the city recorder to the Shelbyville Police Department, board chairman, and to the operator. The application for renewal shall be upon a form provided by the city recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. An addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, none of the fees collected shall be returned.

(3) If the Shelbyville Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the board not later than ten (10) days after the date of the application for renewal.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee is allowed to continue employment in a sexually-oriented establishment in the following calendar year. Any employee desiring to renew a permit shall make application to the city recorder. The application for renewal shall be filed in triplicate with and dated by the city recorder. A copy of the application for renewal shall be distributed within five (5) days by the city recorder to the Shelbyville Police Department, board chairman, and to the employee. The application for renewal shall be upon a form provided by the city recorder and shall contain such information and date, given under oath or affirmation, as may be required by the board.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the applicant is denied, none of the fe shall be returned.

(6) If the Shelbyville Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the board not later than ten (10) days after the date of the application for renewal.

(7) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated, and approved or denied within the same time period as those established in this article for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights to appeal to the city council as set forth in section 5-114 of the chapter. (Ord. #596, April 1998)

5-914. Revocation of license or permit. (1) The board shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

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

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

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

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

(k) Any operator, employee or entertainer is convicted of a "specified criminal act," as defined in section 5-902, provided that such violation occurred on the licensed premises.

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

If the license holder or permit holder desires to request a hearing before the board to contest the suspension or revocation, such request shall be made in writing to the city recorder within ten (10) days of the license holder's or permit holder's receipt of the notification from the board. The city recorder must notify the board within three (3) days of notification of the request for a hearing. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.

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

(3) If the board affirms the suspension or revocation, the office of the city attorney shall institute suit for declaratory judgment in a court of record in Bedford County, within five (5) days of the date of any such affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.

(4) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation. No location or

premises for which a license had been issued shall be used as an adult-oriented establishment for one (1) year from the date of revocation of the license. (Ord. #596, April 1998)

5-915. Hours of operation. (1) No sexually-oriented business shall be open between the hours of 1:00 AM and 8:00 AM on weekdays or between the hours of 3:00 AM and 12:00 noon on Sundays.

(2) All sexually-oriented businesses shall be open to inspection at all reasonable times by the Shelbyville Police Department, board members or their inspectors. (Ord. #596, April 1998)

5-916. Responsibilities of the operator. (1) The operator shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age birthdate, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of employees available immediately for inspection by police upon demand of a member of the Shelbyville Police Department, board members, or their inspectors at all reasonable times.

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

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

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

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

(7) Every sexually-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein sexual entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of sexually-oriented motion pictures or other types of sexual entertainment. Nothing in this chapter shall not apply to bathrooms unless the bathroom contains any equipment which would allow the viewing of sexually-oriented films, sexually-oriented movies, adult videos, or sexually-oriented live exhibitions.

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

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

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

"This Sexually-Oriented Business is Regulated by the City of Shelbyville Municipal Code section 5-901 et seq." Entertainers are:

- (a) Not permitted to engage in any type of sexual conduct;
- (b) Not permitted to expose their sex organs;
- (c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion;
- (d) Not permitted to appear in a state of full nudity.

(11) Sexually-oriented businesses that provide "specified services" for customers or patrons shall:

- (a) Provide patrons with written contracts and receipts that show:
  - (i) "Specified service" provided;
  - (ii) Cost of "specified service;"
  - (iii) Date and time of service provided;
  - (iv) Signature of customer or patron and signature or initials of permit holder providing the "specified service;" and
  - (v) Method of payment for service.
  - (vi) Keep copies of contracts and receipts on file for two years.

(b) Keep copies on file of all published advertisements. (Ord. #596, April 1998)

5-917. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of a sexually-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to engage in "sexual conduct or sexual activity," as defined in section 5-902, or perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

(4) No employee or entertainer while on the premises of the sexually-oriented establishment may mingle with any customer or spectator for any purpose.

(5) No employee or entertainer, while on the premises of a sexually-oriented establishment, may:

(a) Engage in sexual conduct or activity;

(b) Engage in deviant sexual conduct;

(c) Appear in a state of nudity;

(d) Fondle the genitals of himself or another person; or

(6) If the license holder operates an escort bureau, such bureau shall not be operated as a "sexually-oriented escort bureau" as defined in this chapter.

(7) No permit holder of an escort bureau shall conduct oneself as a "sexually-oriented escort" as defined in this chapter.

(8) No license holder shall advertise that they offer "sexual conduct" or "sexual gratification" as defined in this chapter.

(9) Prohibition of distribution of sexual devices:

(a) It is unlawful for any owner, operator, entertainer, or employee, while on the premises of the licensed sexually-oriented establishment, to distribute, for commercial purposes, sell or offer for sale any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sado-masochistic use or abuse of themselves or others.

(b) Such devices, instruments or paraphernalia include not are not limited to: phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sado-masochistic abuse. (Ord. #596, April 1998)

5-918. Penalties and prosecution. (1) Any person, partnership, or corporation who is found to have violated this chapter shall be fined a definite

sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (Ord. #596, April 1998)

5-919. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provisions declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (Ord. #596, April 1998)

5-920. Denial of applications or renewals. (1) As used in this section, "application" shall mean:

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

(2) Whenever an application is denied, the chairman shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the board. If the applicant desires to request a hearing before the board to contest the denial of an application, such request shall be made in writing to the city recorder within ten (10) days of the applicant's receipt of the notification of the denial of the application. The city recorder must notify the board within three (3) days of notification of the request for a hearing. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the city recorder's receipt of such request before the board at which time the applicant may present evidence as to why the application should not be denied. The board shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-two (22) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the board.

(3) If the board affirms the denial of an application, the office of the city attorney shall institute suit for declaratory judgment in a court of record in Bedford County, within five (5) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law. (Ord. #596, April 1998)



## CHAPTER 10

CABLE TELEVISION--CUSTOMER SERVICE AND  
CONSUMER PROTECTION STANDARDS

## SECTION

5-1001. Cable television customer service and consumer protection standards.

5-1002. Definitions.

5-1003. Violation and penalty.

5-1001. Cable television customer service and consumer protection standards. Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 543, and Federal Communications Commission action under the authority of said Act authorizing the City of Shelbyville, Tennessee to enforce cable television customer service and consumer protection standards within the boundaries of the City of Shelbyville, Tennessee; the regulations contained in Title 47 of the Code of Federal Regulations, Part 76, Subpart H, section 76.309, are hereby adopted and incorporated by reference as a part of this code. Any cable television operator franchised to operate within the corporate limits of the City of Shelbyville, Tennessee shall meet all the standards contained in the regulations cited in this section. (as added by Ord. #662, April 2001)

5-1002. Definitions. Whenever the regulations cited in § 5-1001 refer to "franchising authority," it shall be deemed to be a reference to the City Council of the City of Shelbyville, Tennessee. (as added by Ord. #662, April 2001)

5-1003. Violation and penalty. Any violation of § 5-1001 shall subject the offender to a penalty up to five hundred dollars (\$500) for each offense. Each day the violation shall continue shall constitute a separate offense. (as added by Ord. #662, April 2001)

CHAPTER 11

FIRE, BURGLARY AND ROBBERY ALARMS

SECTION

- 5-1101. Definitions.
- 5-1102. Classification of alarm systems.
- 5-1103. Installations in police department communications center.
- 5-1104. Alarm system requirements.
- 5-1105. Permits required.
- 5-1106. Issuance of permit and decal.
- 5-1107. Filing requirements.
- 5-1108. Permit fees.
- 5-1109. Inspection of alarm system.
- 5-1110. Current information required.
- 5-1111. False alarm fee.
- 5-1112. False alarm fees--appeal.
- 5-1113. Timing devices.
- 5-1114. Automatic dialing devices.
- 5-1115. Alarm system standards.
- 5-1116. Duties of permit holders.
- 5-1117. Prohibited acts.
- 5-1118. Permits--denial; revocation.
- 5-1119. Business tax license.
- 5-1120. Government immunity.

5-1101. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

(1) "Alarm system" means a device or system of interconnected devices, including hardware and related appurtenances, mechanical or electrical, designed to give warning of activities indicative of felony, fire or criminal conduct requiring urgent attention to and to which the police and fire departments are expected to respond, but does not include alarms installed in conveyances.

(2) "Alarm business" means the business of any individual, partnership, corporation or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or in causing any alarm system to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed in or on any building, structure or facility.

(3) "Alarm user" means the person, firm, partnership association, corporation, company or organization of any kind in control of any building, structure or facility or portion thereof, wherein any alarm system is maintained.

(4) "Alarm permit" means a permit issued by the city allowing the operation of an alarm system within the city.

(5) "False alarm" means any activation of an alarm system upon or following which communication is made to the department that an alarm has been triggered, except alarms resulting from one of the following:

(a) Criminal activity or unauthorized entry.

(b) Acts of God which include but are not limited to the following:

(i) Earthquake causing structural damage to the protected premises;

(ii) Tornado winds causing structural damage to the protected premises;

(iii) Flooding of the protected premises due to the overflow of natural drainage;

(iv) A lightning bolt causing physical damage to the protected premises.

(c) Fire causing structural damage to the protected premises verified by the fire department;

(d) Telephone line malfunction verified in writing to the city by at least a first line telephone company supervisor within seven (7) days of the occurrence;

(e) Persons or forces not directly connected to the owner/user shall not be penalized. If police or fire units, responding to an alarm and checking the protected premises according to standard department operating procedure, do not discover any evidence of fire, unauthorized entry or criminal activity, there shall be a rebuttable presumption that the alarm is false. Entries in the police or fire departments special alarm log book shall be prima facie evidence of the facts stated therein with regard to alarms and responses.

(6) "Cancellation" means the process where response is terminated when the alarm company (designated by the alarm user) notifies the Shelbyville Police Department that there is not an existing situation at the alarm site requiring police response after an alarm dispatch request. If cancellation occurs prior to police arriving at the scene, this is not a false alarm for the purpose of a civil penalty, and no penalty will be assessed.

(7) "Communication center" means the Bedford County E-911 Communications District Center or police department communications center that provides communication service for the Shelbyville Police.

(8) "Runaway alarm" means an alarm system that produces repeated alarm signals that do not appear to be caused by separate human action. The Shelbyville Police Department may in its discretion discontinue police responses to alarm signals from what appears to be runaway alarm.

(9) "SIA Control Panel Standard CP-01" means the American National Standard Institute (ANSI) approved Security Industry Association (SIA) CP-01

Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce false alarms. Control panels built and tested to this standard by a nationally recognized testing organization, will be marked to state: "Design evaluation in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."

(10) "Verify" means to attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary alarm dispatch request. For the purpose of this chapter, telephone verification shall require, as a minimum that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch. (as added by Ord. #2015-954, Feb. 2015)

5-1102. Classification of alarm systems.

- Class I An alarm system is one which incorporates a remote annunciator installed on the premises of the department or the communication center.
- Class II An alarm system incorporating an automatic dialer which directly or indirectly requires a response by Shelbyville Fire or Shelbyville Police Departments.
- Class III An alarm system in which the annunciator located at the protected premises, and which does not incorporate an automatic dialer. (as added by Ord. #2015-954, Feb. 2015)

5-1103. Installations in police department communications center. No burglar or fire alarms will be installed in the police department communications center for monitoring purposes. (as added by Ord. #2015-954, Feb. 2015)

5-1104. Alarm system requirements. (1) No alarm system shall be installed, used or maintained in violation of any of the requirements of this code.

(2) The alarm user shall be responsible for training and re-training all employees, family members and other persons who may make regular use of the protected premises and who may, in the normal course of their activities, be in a position to accidentally trigger a sensor.

(3) The alarm user shall, at all times, be responsible for the proper maintenance and repair of the system.

(4) Class I alarm systems must be installed by a Tennessee licensed alarm contractor. (as added by Ord. #2015-954, Feb. 2015)

5-1105. Permits required. (1) It shall be unlawful for any person to use or maintain any alarm system without a current valid permit. Each alarm permit shall be assigned a unique permit number, and the user shall provide the permit number to the alarm company to facilitate law enforcement dispatch.

(2) Prior to activation of the alarm system, the alarm company must provide instructions explaining the proper operation of the alarm system to the alarm user.

(3) The police and fire departments may refuse to respond to an alarm from a system without a permit.

(4) In the event police or firemen investigate an alarm, the permit holder or an agent shall cooperate by promptly coming to the premises upon request. Refusal shall constitute grounds for suspension or revocation of a permit.

(5) If an alarm user has one or more alarm systems protecting two (2) or more structures having different addresses, a separate permit will be required for each structure.

(6) Alarm installation companies are encouraged to use only alarm control panel(s) which meets SIA Control Panel Standard CP\_01 on all new and upgraded installations. (as added by Ord. #2015-954, Feb. 2015)

5-1106. Issuance of permit and decal. (1) Upon receipt by the city recorder of the permit application and fee, the chief of police or fire chief shall undertake whatever investigation or inspection they deem necessary.

(2) If the investigation is satisfactory, a decal with the alarm user's permit number will be issued with a permit. This decal must be permanently posted on or near the front entrance to the premises so that the information on the decal is visible from outside of the structure. (as added by Ord. #2015-954, Feb. 2015)

5-1107. Filing requirements. (1) The user of every alarm system maintained in the city, shall, within ten (10) days of the installation thereof, file the following information with the city recorder:

(a) The type, make and model of each alarm device, and if the alarm system is monitored, by whom.

(b) The street address and the nearest cross street of the building that houses the alarm.

(c) For commercial premises, the name, address and telephone number of an authorized representative and an alternate who will be able to respond when called by the police department to deactivate the alarm system, if necessary, and to provide an up-to-date list at the central dispatch facility, amending the information from time to time as the authorized representative or alternate should quit or be discharged.

(d) For a private residence, the name, address and telephone number of a person who is not a resident of the private residence in question and who will be able to deactivate the alarm system.

(2) Such filing requirements are applicable to all alarm systems, whether the systems are or are not directly connected to the police department numbers or are merely audible alarms. (as added by Ord. #2015-954, Feb. 2015)

5-1108. Permit fees.

- |     |           |         |   |
|-----|-----------|---------|---|
| (1) | Class I   | \$25.00 | A one-time fee to be paid when the initial application for a permit hereunder is filed with the city.   |
| (2) | Class II  | \$25.00 | A one-time fee to be paid when the initial application for a permit hereunder is filed with the city. Senior citizens are exempt from permit fees in noncommercial use only. Senior citizen is defined as a person who has attained the age of sixty-five (65) years. |
| (3) | Class III | \$25.00 | A one-time fee to be paid when the initial application for permit is filed.   |

(as added by Ord. #2015-954, Feb. 2015)

5-1109. Inspection of alarm system. Prior to issuing an alarm system permit, and at any time thereafter, the city may inspect any alarm system for which a permit is required. Such inspection shall be for the purpose of ascertaining that information furnished by the applicant or permittee is correct, and that the system is maintained in conformation with the provisions of this chapter. (as added by Ord. #2015-954, Feb. 2015)

5-1110. Current information required. (1) Within ten (10) days following any change of circumstances which renders obsolete any of the information previously submitted, the alarm user shall file an amendment to his application, setting forth the currently accurate information. No additional fee shall be required unless the change has terminated the permit. Failure to comply with the section shall constitute grounds for revocation of the permit.

(2) When the possession of the premises at which an alarm system is maintained is transferred, the person (user) obtaining possession of the property shall file an application for an alarm permit within thirty (30) days of obtaining possession of the property. Alarm permits are not transferable. (as added by Ord. #2015-954, Feb. 2015)

5-1111. False alarm fee. (1) Whenever an alarm is activated in the city, thereby requiring an emergency response to the location by the police or fire departments, and the police or the fire department does respond, a police officer

or fireman on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response is in fact required as indicated by the alarm system or whether in some way the alarm system malfunctions and thereby activated a false alarm.

(2) It is hereby found and determined that all false alarms constitute a public nuisance. The permit holder will be billed a fifty dollars (\$50.00) service charge per false alarm occurrence in any calendar year. Each service charge incurred shall be billed and payment shall be made within thirty (30) days from the date of receipt thereof. (as added by Ord. #2015-954, Feb. 2015)

5-1112. False alarm fees--appeal. Prior to the assessment of the charges levied in § 5-1111, the alarm user may appeal such charge to the city manager. Such appeal shall be in writing and filed within five (5) working days of notice of false alarm charge. The city manager shall have ten (10) working days to decide on any appeal and his/her decision shall be administering final. (as added by Ord. #2015-954, Feb. 2015)

5-1113. Timing devices. The user of every alarm system emitting an audible, visual or other response shall install or cause to be installed an automatic timing device, which shall deactivate such alarm so that it will be activated for no more than thirty (30) minutes. (as added by Ord. #2015-954, Feb. 2015)

5-1114. Automatic dialing devices. It shall be a violation of this chapter for any automatic dialing device to call into the police or fire department directly, either on regular business lines or on 911 emergency lines. (as added by Ord. #2015-954, Feb. 2015)

5-1115. Alarm system standards. All alarm systems operating within the city shall conform to the following standards:

(1) The installer of the alarm system may place each alarm so installed on a thirty (30) day test period to reduce the possibility of false alarms. During this test period, the alarm installer will notify the fire and police bureaus that specific alarms are being tested that will not require police or fire response should an alarm be activated. Since no fire or police response will be required during the test period, there will be no charge to the alarm user should a false alarm occur; however any false alarm that results in response by either the fire or police bureaus will implement the provisions set forth in § 5-1111(1) and (2) of this chapter.

(2) The installer of any alarm system will maintain a local service organization within the Middle Tennessee area ("Middle Tennessee area" as used herein shall mean the counties of Bedford, Giles, Lincoln, Coffee, Wilson, Moore, Marshall, Rutherford, Davidson, Williamson, and Sumner) capable of providing necessary service calls of both a maintenance and emergency nature,

within a reasonable time period after notice of equipment malfunction. (as added by Ord. #2015-954, Feb. 2015)

5-1116. Duties of permit holders. (1) Each owner, operator or lessee shall be responsible for training employees, servants or agents in the prior operation of an alarm system.

(2) The current alarm registration sticker provided each permit holder shall be displayed so as to be easily visible from outside the building. (as added by Ord. #2015-954, Feb. 2015)

5-1117. Prohibited acts. (1) It shall be unlawful to activate an alarm system for the purpose of summoning law enforcement when no burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.

(2) It shall be unlawful to install, maintain, or use an audible alarm system which can sound continually for more than ten (10) minutes.

(3) It shall be unlawful to install, maintain, or use an automatic dial protection device that reports, or causes to be reported, any recorded message to the Shelbyville Police Department. (as added by Ord. #2015-954, Feb. 2015)

5-1118. Permits--denial; revocation. (1) The chief of fire, chief of police, or chief building official may deny any application for an alarm installation permit, or revoke such permit, if the applicant or any or the applicant's owners, partners, or principal corporate officers have:

(a) Knowingly and willfully submitted any false information of a material nature in connection with the application for a license or reinstatement thereof.

(b) Been convicted in any jurisdiction of a felony or a misdemeanor which the chief of fire, chief of police, or city manager finds to be a conviction that reflects unfavorably on the fitness of the applicant to engage in the alarm business within the city. (as added by Ord. #2015-954, Feb. 2015)

5-1119. Business tax license. All security alarm businesses and installers within the city must possess a valid business tax license obtained through the tax division of the officer of the city recorder. (as added by Ord. #2015-954, Feb. 2015)

5-1120. Government immunity. Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm registration,



the alarm user acknowledges that the Shelbyville Police Department response may be influenced by factors such as: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history. (as added by Ord. #2015-954, Feb. 2015)