

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. CABLE TELEVISION.
3. ADULT-ORIENTED BUSINESSES.
4. YARD SALES.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
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- 9-105. Restrictions on peddlers, street barkers and solicitors.
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- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
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- 9-110. Enforcement, violations, and penalties.

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

(1) "Peddler," means any person, firm or corporation, either a resident or a nonresident of the city, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from

¹Municipal code references

Building, and plumbing regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

²Municipal code references

Privilege taxes: title 5.

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, 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 at least one of the following criteria:

(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 Weakley County for a period of two (2) years prior to the date of its application for registration under this chapter.

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

(5) "Transient vendor," 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

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.¹

(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. (1988 Code, § 5-101)

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products. (1988 Code, § 5-102)

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. (1988 Code, § 5-103)

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

- (a) The complete name and permanent address of the business or organization the applicant represents.
- (b) A brief description of the type of business and the goods to be sold.
- (c) The dates for which the applicant intends to do business or make solicitations.
- (d) The names and permanent addresses of each person who will make sales or solicitations within the city.

¹State law references

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

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

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitation, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

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

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee to be set by resolution of the board of mayor and aldermen. There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit. (1988 Code, § 5-104, modified)

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

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

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

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

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

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located. (1988 Code, § 5-105)

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or

otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (1988 Code, § 5-106)

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (1988 Code, § 5-107)

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

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

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in subsection (1) above. Notice of the hearing for suspension or 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 the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1988 Code, § 5-108)

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (1988 Code, § 5-109)

9-110. Enforcement, violations, and penalties. The code enforcement officer, public officer, or any law enforcement officer for the Town of Dresden shall be empowered to investigate and enforce the provisions of this title by the issuance of a citation citing such person or persons violating any provision thereof into city court. In addition to any other action the city may take to enforce the provision of this title, such violation shall be punishable by fine up to fifty dollars (\$50.00) per offense and the assessment of court cost for

each violation or such other general penalties of this municipal code of ordinances. (1988 Code, § 5-110, as replaced by Ord. #2013-10, June 2013)

CHAPTER 2**CABLE TELEVISION****SECTION**

9-201. To be furnished under franchise.

9-201. To be furnished under franchise. Cable television shall be furnished to the City of Dresden under franchise agreements granted by the board of mayor and aldermen. (1988 Code, § 13-401, modified)

CHAPTER 3

ADULT-ORIENTED BUSINESSES

SECTION

- 9-301. Definitions.
- 9-302. Board of zoning appeals established as adult-oriented establishment board.
- 9-303. License to operate--required.
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- 9-305. License to operate--qualifications--fees.
- 9-306. Inspections--notice of results.
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- 9-314. Entertainers or escorts--permits--required.
- 9-315. Entertainers or escorts--permits--application.
- 9-316. Entertainers, employees or escort--permits--qualifications--investigations.
- 9-317. Entertainers and escorts--permits--fees.
- 9-318. Penalties for violation.
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9-301. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Adult bookstore" means a business that offers, as its principal or predominate stock or trade, sexually oriented material, devices, or paraphernalia, whether determined by the total number of sexually oriented materials, devices or paraphernalia offered for sale or by the retail value of such materials, devices or paraphernalia, specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live, and that restricts or purports to restrict admission to adults or to any class of adults. The definition specifically includes items sexually oriented in nature, regardless of how labeled or sold, such as adult novelties, risqué gifts or marital aids.

(2) "Adult cabaret" means an establishment that features as a principal use of its business, entertainers, waiters, or bartenders who expose to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material

or completely covered by translucent material, including swim suits, lingerie, or latex covering. "Adult cabaret" includes a commercial establishment that features entertainment of an erotic nature, including exotic dancers, strippers, male or female impersonators, or similar entertainers.

(3) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, that has as a principal or predominant theme, emphasis, or 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 personal service offered customers.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of fewer 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 in this section, for observation by patrons in the building.

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

(6) "Adult-oriented establishment" includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna; further, "adult-oriented establishment" means any premises to which the public patrons or members are invited or admitted and that are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. "Adult-oriented establishment" further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, escort or any other term of like import.

(7) "Board" means the adult-oriented established board, or, if there is in existence in the town a massage registration board appointed by the town mayor, such board may be substituted for the board.

(8) "Town," as used in this chapter, means the Town of Dresden, Tennessee.

(9) (a) "Employee" means a person who performs any service on the premises of an adult-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 such person is paid a salary, wage, or other compensation by the operator of such business.

(b) "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does it include an independent accountant, attorney, or other similar professional incidentally visiting the premises solely to perform accounting, legal or other similar professional services; provided, that the accountant, attorney or other similar professional is not a manager, owner, operator, entertainer, or escort connected with the adult-oriented establishment or the providing of adult entertainment.

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

(11) "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 place of public resort or within any private quarters of a place of public resort.

(a) "Service-oriented escort" is an escort that:

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

(b) "Sexually-oriented escort" is an escort that:

- (i) Employs as an employee, agent, or independent contractor an escort bureau runner;
- (ii) Works for, as an agent, employee, contractor, or is referred to a patron by a sexually-oriented escort bureau;
- (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 that so advertises;
- (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 conduct for a fee in addition to the fee charged by the escort bureau;

(v) Works as an escort without having a current valid permit issued under this part in such person's 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.

(12) "Escort service" means a "person" as defined in this section, 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) "Service-oriented escort bureau" is an escort bureau that:

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

(ii) Employs or provides only escorts who possess valid permits issued under this part;

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

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

(b) "Sexually-oriented escort bureau" is an escort bureau that:

(i) Does not maintain an open office;

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

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

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

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

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

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

(13) "Massage services" means an establishment or place primarily in the business of providing massage or tanning services where one (1) or more of the employees exposes to public view of the patrons within such 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. Massage services shall not include massaged therapy by a state licensed massage therapist.

(14) "Notice" means, when required by this part, placing the document in the United States mail with sufficient first-class postage to carry it to its destination to the address of the person being notified as contained in their application, unless such person has notified the board in writing of such person's

new address. "Receipt of notification" is presumed three (3) days after the mailing of a notice.

(15) "Open office" means an office at the escort service from which the escort business is transacted and that 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) "Operator" means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment.

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

(18) "Rap parlor" means an establishment or place primarily in the business of providing nonprofessional conversation or similar service for adults.

(19) "Sauna" means an establishment or place primarily in the business of providing:

- (a) A steam bath; or
- (b) Massage services.

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

(21) "Sexual encounter center" means a business or commercial enterprise that, as one of its primary 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 or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such 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.

(22) "Sexual gratification" means sexual conduct as defined in this section.

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

(24) "Specified anatomical areas: means:

(a) Less than completely and opaquely covered:

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

(b) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

(25) "Specified criminal acts" means the following criminal offenses as defined by Tennessee Code Annotated or the corresponding violation of another state or country:

- (a) Aggravated rape;
- (b) Rape;
- (c) Rape of a child;
- (d) Aggravated sexual battery;
- (e) Sexual battery by an authority figure;
- (f) Sexual battery;
- (g) Statutory rape;
- (h) Public indecency;
- (i) Prostitution;
- (j) Promoting prostitution;
- (k) Distribution of obscene materials;
- (l) Sale, loan or exhibition to a minor of material harmful to minors;
- (m) The display for sale or rental of material harmful to minors;
- (n) Sexual exploitation of a minor;
- (o) Aggravated sexual exploitation of a minor; and
- (p) Especially aggravated sexual exploitation of a minor.

(26) "Specified services" means massage services, private dances, private modeling, acting as an escort as defined in this part, and any other live adult entertainment as defined in this section; and

(27) "Specified sexual activities" means:

- (a) Human genitals in a state of sexual stimulation or arousal;
 - (b) Acts of human masturbation, sexual intercourse or sodomy;
- or
- (c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (as added by Ord. #2011-02, Aug. 2010)

9-302. Board of zoning appeals established as adult-oriented establishment board. (1) The board of zoning appeals is hereby established as the adult-oriented establishment board.

(2) The board shall consist of the membership of the existing board of zoning appeals.

(3) The terms of the board members shall be coextensive with the terms of the board of zoning appeals with no member serving after the expiration of the member's term or removal from the board of zoning appeals.

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

(5) The board shall serve without compensation.

(6) The chair of the board shall be the already appointed chair of the board of zoning appeals and the chair shall notify interested persons and members of board meetings.

(7) The board shall meet as often as required to carry out the provisions of this part.

(8) To further the purposes of this part, the board shall have authority to promulgate procedural rules and any substantive rules consistent with this part that are constitutionally valid and are promulgated in such a way that the board's discretion about whether to grant, deny, revoke, or suspend a license or permit is not unbridled. (as added by Ord. #2011-02, Aug. 2010)

9-303. License to operate--required. (1) Except as provided in § 9-305, no adult-oriented establishment shall be operated or maintained without first obtaining a license to operate issued by the Dresden Adult-Oriented Establishment Board.

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

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

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

(5) All existing adult-oriented establishments, entertainers, employees, escorts, or operators, at the time this part is given local effect, must submit an application for an appropriate license or permit within one hundred twenty (120) days of this part becoming effective. All existing adult-oriented establishments, entertainers, employees, escorts, or operators, at the time this part is given local effect, who timely submit an application for an appropriate license or permit, as set forth in § 9-305, shall be granted a conditional license or permit maintaining the status quo, pending final judicial review by the trial court. If no timely application is filed within the one-hundred-twenty-day period, or no license or permit is issued by the board or granted through judicial review by the trial court, then the adult-oriented establishment, entertainer, employee, escort, or operator shall cease to operate or to perform such services or entertainment.

(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 applicable zoning requirements in the

town. Any zoning requirement shall be in addition to and not an alternative to any requirement of this part. (as added by Ord. #2011-02, Aug. 2010)

9-304. License to operate--application. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the adult-oriented establishment board. A copy of the application shall be distributed promptly to the town police department.

(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 eighteen (18) years of age;
- (c) The business, occupation or employment of the applicant in an adult- oriented establishment for five (5) years immediately preceding the date of the application;
- (d) The adult-oriented establishment or similar business license history of the applicant; whether such applicant, in previously operating in this or any other county, city or state under license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subject to such action of suspension or revocation;
- (e) Any conviction for or plea of nolo contendere to a specified criminal act as defined in this chapter;
- (f) The address of the adult-oriented establishment to be operated by the applicant;
- (g)
 - (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.
 - (ii) If the applicant is a partnership, the application shall specify the name and address of the partnership, and the name and address of all general partners of the partnership.
 - (iii) 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; and
- (h) A statement by the applicant that the applicant is familiar with the provisions of this part and is in compliance with this chapter.

(3) Within ten (10) days of receiving the results of the investigation conducted by the board or police department, pursuant to § 9-305(4), the board shall notify the applicant that the 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 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 the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this part constitutes an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial of the license by the board. (as added by Ord. #2011-02, Aug. 2010)

9-305. License to operate--qualifications--fees. To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

- (1) (a) If the applicant is an individual:
 - (i) The applicant shall be at least eighteen (18) years of age;
 - (ii) The applicant shall not have had a 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 chapter within five (5) years immediately preceding the date of the application; and
 - (iv) The applicant shall not have been convicted of a "specified criminal act," as defined in § 9-301, 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-month period.
- (b) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.
- (2) (a) If the applicant is a corporation:
 - (i) All officers, directors and stockholders required to be named shall be at least eighteen (18) years of age;
 - (ii) No officer, director and stockholder required to be named shall have had an adult-oriented establishment license revoked within five (5) years immediately preceding the date of the application;

(iii) No officer, director or stockholder required to be named under 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; and

(iv) The applicant or officer, director or stockholder required to be named under shall not have been convicted of a "specified criminal act," as defined in § 9-301, 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; and

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

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

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

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

(ii) All persons having a financial interest in the partnership, joint venture or other type of organization shall not have had a license revoked within five (5) years immediately preceding the date of the application;

(iii) No applicant or person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to any violation of this chapter within five (5) years immediately preceding the date of the application; and

(iv) The applicant or any person having a financial interest required to be disclosed shall not have been convicted of a "specified criminal act," as defined in § 9-301, 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-month period.

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

(4) No license shall be issued unless the board or 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. The board shall only deny an application for a license for reasons set forth in this chapter.

(5) 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 this section has elapsed.

(6) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. (as added by Ord. #2011-02, Aug. 2010)

9-306. Inspections--notice of results. (1) In order to effectuate the provisions of this chapter, the board, its authorized representative or police department personnel is empowered to conduct investigations of persons engaged in the operation of any adult-oriented establishment 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 chapter.

(2) Within ten (10) days of receiving the results of the investigation conducted pursuant to § 9-305(4), the board shall notify the applicant that the 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 investigation, the board shall advise the applicant in writing whether the application is granted or denied.

(3) If an additional investigation is held and is not a result of actions by the applicant, upon the expiration of the thirtieth day from the filing of the application, the applicant shall be permitted to operate the business for which the license is sought, unless or until the board or its authorized representative notifies the applicant of a denial of the application and states the reasons for that denial. (as added by Ord. #2011-02, Aug. 2010)

9-307. Injunctions--contempt. (1) The board has the power and authority to enter into any court of the State of Tennessee having proper jurisdiction to seek an injunction against any person or adult-oriented establishment not in compliance with the provisions of this chapter, and is further empowered to enter into any such court to enforce the provisions of this chapter in order to ensure compliance with such provisions.

(2) Any violation of an injunction obtained under this section is contempt with a fine of fifty dollars (\$50.00).

(3) Each day in contempt of such injunction is considered a separate offense.

(4) The circuit, chancery, or criminal courts of this state and the chancellors and judges of the courts shall have full power, authority, and jurisdiction, upon application by sworn detailed petition filed by the board within their respective jurisdictions, to issue any and all proper restraining orders, temporary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce this part. (as added by Ord. #2011-02, Aug. 2010)

9-308. Revocation, suspension or annulment of licenses. (1) The board shall revoke, suspend or annul 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, employee, or any escort violates any provision of this chapter; provided, that an operator has a duty to supervise conduct on the premises of the adult-oriented establishment and shall be deemed responsible for the conduct of an entertainer, employee, or escort, if the operator knew, or should have known, of the violation and authorized, approved, or, in the exercise of due diligence, failed to take reasonable efforts to prevent the violation;

(c) The operator, entertainer, employee, or escort becomes ineligible to obtain the appropriate license or permit;

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

(e) Any intoxicating liquor or malt beverage is served or consumed on the premises of the adult-oriented establishment, when an operator, employee, entertainer, or, in the exercise of due diligence, failed to take reasonable efforts to prevent the violation;

(f) An operator who, with actual or constructive knowledge, 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;

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

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

(i) An operator, who with actual or constructive knowledge, fails to maintain the licensed premises in a sanitary condition by allowing continuing violations of the published health code, rules, or regulations

specifically applicable in that jurisdiction, based upon an inspection by the appropriate health authority for that jurisdiction; and

(j) Any operator employee or entertainer is convicted of a specified criminal act, as defined in § 9-301, provided that such violation occurred on the licensed premises.

(2) (a) Notwithstanding anything in this chapter to the contrary, before revoking or suspending any license or permit, the chair shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the 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.

(b) 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 mayor within ten (10) days of the license holder's or permit holder's receipt of the notification from the board. 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.

(c) If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the mayor's receipt of such request before the board, at which time the license holder or permit holder may present evidence contrary to the provisions of this chapter. The board shall hear evidence concerning the basis for such suspension or revocation and shall affirm or reverse the suspension or revocation at the conclusion of such 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) (a) If the board affirms the suspension or revocation, the city attorney shall institute suit for declaratory judgment in a court of record, 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.

(b) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation.

(c) The applicant shall be entitled to judicial determination of the issues within two (2) days after joinder of issue, and a decision shall be rendered by the court within two (2) days of the conclusion of the hearing.

(d) The board shall have the burden of showing that a revocation or suspension of a license under this section is not arbitrary or capricious. If a board decision is found by the court to be clearly erroneous, the court may overturn the decision as being arbitrary or capricious. (as added by Ord. #2011-02, Aug. 2010)

9-309. Hearings on disciplinary actions--judicial review--prohibition on operation of business. (1) As used in this section, "application" means:

- (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 chair 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. All adult-oriented establishments, entertainers, employees, escorts, or operators who timely submit an application for renewal of an appropriate license or permit shall be granted a conditional license or permit maintaining the status quo pending review by the board and final judicial review by the trial court. 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 county mayor of such county within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the mayor'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 such 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) (a) 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, 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.

(b) The applicant shall be entitled to judicial determination of the issues within two (2) days after joinder of issue, and a decision shall be rendered by the court within two (2) days of the conclusion of the

hearing. The applicant shall cooperate in expediting completion of service of process by the board when initiating a declaratory action under this part.

(c) The board shall have the burden of showing that the denial of an application under this section is not arbitrary or capricious. If a denial of the application by the board is found by the court to be clearly erroneous, the court may overturn the action as being arbitrary or capricious.

(d) The provisions of this part mandating judicial review shall control over general provisions for declaratory judgment actions in the event of any conflict. (as added by Ord. #2011-02, Aug. 2010)

9-310. Termination and renewal of licenses—applications—fees.

(1) Every license issued under this part will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the board. 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 board. A copy of the application for renewal shall be distributed promptly by the chair of the board to the applicable county sheriff. The application for renewal shall contain such information and data relevant to the renewal request, including information related to the applicant's qualifications or whether there are grounds for denial of renewal, and shall be given under oath or affirmation, as may be required by the board, but not less than the information contained in the original application.

(2) A license renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires. If the application is denied, one half (1/2) of the fee shall be returned.

(3) If the police department is aware of any information bearing on the operator's qualifications, the 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 under this part will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before an entertainer is allowed to provide entertainment in an adult-oriented establishment in the following calendar year. Any entertainer desiring to renew a permit shall make application to the board. The application for renewal must be filed not later than thirty (30) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the board. A copy of the application for renewal shall be distributed promptly by the board to the police department. The application for renewal shall be upon a form provided by the board and shall contain such information and data

relative to the renewal request, such as the applicant's qualifications, or whether there are grounds for denying the renewal, given under oath or affirmation, as may be required by the board.

(5) A permit renewal fee of fifteen dollars (\$15.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of five dollars (\$5.00) shall be assessed against the applicant who files for renewal less than thirty (30) days before the license expires. If the application is denied, one half (1/2) of the fee shall be returned.

(6) If the police department is aware of any information bearing on the entertainer'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 in this part to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated, and approved or denied within the same time periods as those established in this part for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights of appeal to the board as set forth in § 9-309. (as added by Ord. #2011-02, Aug. 2010)

9-311. Hours open for inspection. The public portion of all adult-oriented establishments shall be open to inspection at all reasonable times by the police department or such other persons as the board may designate. (as added by Ord. #2011-02, Aug. 2010)

9-312. Duties and responsibilities of operators, entertainers and employees. (1) The operator shall maintain a register of all employees, entertainers, or escorts, showing for each person the name, permit number issued under this part, any aliases used, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone number, social security number, driver license number, date of employment and termination, and duties associated with the adult-oriented establishment. This 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 the board or sheriff's department upon demand of a member of the board or sheriff's department at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this part 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 supervising the conduct of all entertainers and employees while on the licensed premises, and shall exercise due diligence in taking reasonable efforts to prevent acts or omissions of any entertainers or employees constituting a violation of the provisions of this part, with the operator's failure to reasonably fulfill this duty constituting a ground for determining whether the operator's license shall be revoked, suspended or renewed.

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

(6) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common areas of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever.

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

(8) The license shall be conspicuously displayed in the common area of the premises at all times.

(9) The permit shall be kept by an employee, entertainer, or escort so that it is readily available for display immediately upon request by any member of the county sheriffs department or other appropriate law enforcement official, any board member, or any person designated by the board to assist it in enforcing this part. Each employee, entertainer, or escort shall immediately display or disclose the employee, entertainer, or escort's valid permit number to any customer upon request. (as added by Ord. #2011-02, Aug. 2010)

9-313. Prohibited activities. (1) No operator, entertainer or employee of an adult-oriented establishment, either on the premises or in relation to the person's role as an operator, entertainer, or employee of an adult-oriented establishment, shall permit to be performed, offer to perform, perform, or allow patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

(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, or customer.

(4) (a) No employee or entertainer, while on the premises of an adult-oriented establishment, may:

- (i) Engage in sexual intercourse;
- (ii) Engage in deviant sexual conduct;
- (iii) Appear in a state of nudity; or
- (iv) Fondle such person's own genitals or those of another.

(b) For the purpose of this section, "nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(5) 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.

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

(7) No license holder shall advertise that such license holder offers sexual stimulation or sexual gratification as defined in this part. (as added by Ord. #2011-02, Aug. 2010)

9-314. Entertainers or escorts--permits--required. No person shall be an entertainer, employee, or escort in an adult-oriented establishment without a valid permit issued by the board. (as added by Ord. #2011-02, Aug. 2010)

9-315. Entertainers or escorts--permits--application. (1) Any person desiring to secure a permit as an entertainer, employee, or escort shall make application to the board. The application shall be filed in triplicate with and dated by the board. A copy of the application shall be distributed promptly by the board to the sheriff's department.

(2) The application for a permit shall be upon a form provided by the board. 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 eighteen (18) years of age;
- (c) The applicant's height, weight, color of eyes and hair;
- (d) The adult-oriented establishment or similar business permit history of the applicant; whether such person, in previously operating in this or any other city or state under permit, has had such permit revoked or suspended, the reason for the revocation or suspension, and the business activity or occupation subject to such action of suspension or revocation;
- (e) Any conviction for or plea of nolo contendere to "a specified criminal act" as defined in § 9-301;

(f) Two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant; and

(g) A statement by the applicant that the applicant is familiar with the provisions of this part and is in compliance with the provisions of this part.

(3) Within ten (10) days of receiving the results of the investigation conducted by the board or police department, the board shall notify the applicant that the applicant's 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 that is not caused by actions of the applicant, upon the expiration of the thirtieth day from the filing of the application, the applicant shall be permitted conditionally to work as an entertainer, employee, or escort pending final judicial review by the trial court of a decision by the board to deny the application.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application, or the applicant's refusal to submit to or cooperate with any investigation required by this part, constitutes an admission by the applicant that the applicant is ineligible for such permit, and is grounds for denial thereof by the board. (as added by Ord. #2011-02, Aug. 2010)

9-316. Entertainers, employees or escorts--permits--qualifications--investigations. (1) To receive a permit as an entertainer, employee or escort, an applicant must meet the following standards:

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

(ii) The applicant shall not have had a permit revoked within two (2) years immediately preceding the date of the application;

(iii) The applicant shall not have been convicted of a "specified criminal act," as defined in § 9-301, 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; and

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

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

(c) 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 subsection (1)(a)(iii) has elapsed.

(2) No permit shall be issued until the board or 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 no later than thirty (30) days after the date of the application. The board shall only deny a permit application for reasons set forth in this part. (as added by Ord. #2011-02, Aug. 2010)

9-317. Entertainers and escorts--permits--fees. A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. (as added by Ord. #2011-02, Aug. 2010)

9-318. Penalties for violation. (1)(a) A violation of this chapter shall, for a first offense, be a Class B misdemeanor, punishable by a fine only of five hundred dollars (\$500.00), and shall result in the suspension or revocation of any license.

(b) A second or subsequent violation of this chapter is a Class A misdemeanor, and shall result in the suspension or revocation of any 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. (as added by Ord. #2011-02, Aug. 2010)

9-319. Criminal conviction record check. (1) All applicants for a license or permit to operate an adult-oriented establishment or to perform as an entertainer at an adult-oriented establishment shall submit a full set of fingerprints to the city for positive identification of the applicant and the city shall conduct a criminal conviction records check of the applicant.

(2) (a) Upon receipt of an application, the city shall:

(i) Conduct a criminal conviction record check through such computer terminals available to it or other means of access to criminal convictions that are maintained by the city, the Tennessee Bureau of Investigation and the Federal Bureau of Investigation; and

(ii) Forward the applicant's fingerprints to the Tennessee Bureau of Investigation, which shall verify the identity of the applicant and shall conduct its own criminal conviction record check itself and forward the results of that investigation to the requesting county, city or other political subdivision.

(b) If no disqualifying criminal conviction is identified by the city or by the Tennessee Bureau of Investigation, the Tennessee Bureau of Investigation shall forward a set of the applicant's fingerprints to the Federal Bureau of Investigation for verification of the applicant's identity and request the Federal Bureau of Investigation to conduct a criminal conviction record check investigation using the fingerprints.

(c) The results of criminal conviction record investigations shall be used for the limited purpose of determining the applicant's qualifications for a license to operate an adult-oriented establishment or for a permit to perform as an entertainer at an adult-oriented establishment.

(3) Fingerprints shall be submitted on authorized fingerprint cards or by electronic, machine-readable data, or other means approved by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.

(4) Any cost incurred in conducting such criminal conviction records investigations shall be paid by the city. The city may include such cost as part of any fee it charges for processing the applicant's license or permit. (as added by Ord. #2011-02, Aug. 2010)

CHAPTER 4

YARD SALES

SECTION

- 9-401. Definitions.
- 9-402. Permitted signs.
- 9-403. Frequency and duration limitations; days and hours of operation.
- 9-404. Permits not transferable.
- 9-405. Persons exempted from this chapter.
- 9-406. Violation.
- 9-407. Enforcement.

9-401. Definitions. The following terms shall have the meanings indicated:

Yard sale shall refer to and include all general sales, open to the public, conducted from or on a residential premise in any zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "auction," "backyard," "patio," "flea market," or "rummage" sale. This definition shall not include a situation where no more than two (2) specific items are held out for sale and all advertisements of such sale specifically names those items to be sold.

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 for resale or obtained on consignment.

Permit shall refer to the form that must be obtained, completed, submitted to and issued by the Dresden City Recorder prior to conducting a yard sale;

Household shall refer to the individual who applies for a permit and anyone who resides in that individual's residence; and

Town shall refer to the Town of Dresden, Tennessee. (as added by Ord. #2013-07, Nov. 2012, and replaced by Ord. #2017-02, Feb. 2017 **Ch2_03-07-22**)

9-402. Permitted signs. (1) A yard sale sign shall not be placed or affixed to a tree or utility pole.

(2) Should the yard sale for any reason not be held all signs, flyers, posters, and bulletins advertising the yard sale, must be removed no later than the scheduled last day for the yard sale. (as added by Ord. #2013-07, Nov. 2012, and replaced by Ord. #2017-02, Feb. 2017 **Ch2_03-07-22**)

9-403. Frequency and duration limitations; days and hours of operation. (1) Four (4) yard sales are permissible per household in any twelve (12) month period (January to December) with a permit and no permit fee. Households will not be allowed to have more than four (4) yard sales per year.

(2) Yard sales may be held Thursday through Saturday only. It shall be unlawful for any individual, group, or corporation to conduct a yard sale within the town on a Sunday. (as added by Ord. #2013-07, Nov. 2012, and replaced by Ord. #2017-02, Feb. 2017 *Ch2_03-07-22*)

9-404. Permits not transferable. No permit issued pursuant to the provisions of this chapter shall be transferred. (as added by Ord. #2013-07, Nov. 2012, and replaced by Ord. #2017-02, Feb. 2017 *Ch2_03-07-22*)

9-405. Persons exempted from this 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, 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.

(4) Any bona fide charitable, educational, cultural or governmental institution, or organization when the proceeds from the sale are used directly for the institution or organization's charitable purposes and the goods or articles are not sold on a consignment basis.

(5) The city-wide yard sale held in conjunction with the Tennessee Iris Festival will not require a permit and will not count as one (1) of the four (4) yard sales per year. This yard sale is permitted to be held on Thursday, Friday and/or Saturday without a permit.

(6) The city-wide yard sale held in the fall of each year will not require a permit and will not count as one (1) of the four (4) yard sales per year. This yard sale is permitted to be held on Thursday, Friday and/or Saturday without a permit. (as added by Ord. #2013-07, Nov. 2012, and replaced by Ord. #2017-02, Feb. 2017 *Ch2_03-07-22*)

9-406. Violation. Any person who shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of fifty dollars (\$50.00) and prosecution costs. (as added by Ord. #2013-07, Nov. 2012, and replaced by Ord. #2017-02, Feb. 2017 *Ch2_03-07-22*)

9-407. Enforcement. Any police officer is hereby authorized to act on behalf of the town. (as added by Ord. #2013-07, Nov. 2012, and replaced by Ord. #2017-02, Feb. 2017 *Ch2_03-07-22*)