

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

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CHAPTER 1**PEDDLERS, ETC.²****SECTION**

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¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

²Municipal code references

Privilege taxes: title 5.

9-101. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1994 Code, § 9-201)

9-102. 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. (1994 Code, § 9-202)

9-103. 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 copy of a valid driver's license or state issued identification.
- (7) 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.
- (8) 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.
- (9) At the time of filing the application, a fee of fifty dollars (\$50.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1994 Code, § 9-203, modified)

9-104. Issuance or refusal of permit. (1) Each application shall be investigated. The investigator shall report his findings within seventy-two (72) hours.

(2) If as a result of such investigation the applicant's moral reputation and/or business responsibility is found to be unsatisfactory, he will be notified that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the report indicates that the moral reputation and business responsibility of the applicant are satisfactory, he will be issued

a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city shall keep a permanent record of all permits issued. (1994 Code, § 9-204)

9-105. Appeal. Any person denied 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. (1994 Code, § 9-205)

9-106. Bond. Every permittee shall file with the city recorder a surety bond in the form provided by the city running to the municipality 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 La Vergne and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality 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. 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. (1994 Code, § 9-206, modified)

9-107. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1994 Code, § 9-207)

9-108. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area

where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1994 Code, § 9-208)

9-109. Trespassing. It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave.

9-110. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman, codes official or citizen. (1994 Code, § 9-209, modified)

9-111. Enforcement. It shall be the duty of the police department and codes department to see that the provisions of this chapter are enforced. (1994 Code, § 9-210, modified)

9-112. 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 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. (1994 Code, § 9-211)

9-113. 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. (1994 Code, § 9-212)

9-114. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for up to six (6) months. 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. (1994 Code, § 9-213, modified)

CHAPTER 2

CHARITABLE SOLICITORS

SECTION

- 9-201. Permit required.
- 9-202. Prerequisites for a permit.
- 9-203. Application for permit.
- 9-204. Denial of a permit.
- 9-205. Exhibition of permit.
- 9-206. Trespassing.
- 9-207. Violations.
- 9-208. Solicitation roadblocks.

9-201. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1994 Code, § 9-301)

9-202. Prerequisites for a permit. The recorder shall, upon application, issue a permit authorizing charitable 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.

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant.

(6) The benefits of the solicitation will be used solely for and by the citizens of La Vergne. (1994 Code, § 9-302)

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

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant.
- (3) A brief description of the nature and purpose of the solicitation.
- (4) The length of time for which the right to do the solicitation is desired.
- (5) A copy of a valid driver's license or state issued identification.
- (6) 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.

9-204. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1994 Code, § 9-303)

9-205. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman, codes official or citizen. (1994 Code, § 9-304, modified)

9-206. Trespassing. It shall be unlawful and deemed to be trespass for any permittee acting under this chapter to fail to leave promptly the private premises of any person who requests or directs him to leave. (1994 Code, § 9-305)

9-207. Violations. Any person violating any provisions of this chapter or making a false or fraudulent statement either in his application for a permit or in the process of making a solicitation shall be subject to the penalty provided in the general penalty clause for this municipal code. In addition to or in lieu of any pecuniary penalty, if a violator has been issued a permit, his permit shall be cancelled and revoked by the court. (1994 Code, § 9-306)

9-208. Solicitation roadblocks. (1) Application to and approval from the board of mayor and aldermen shall be required before the use of a solicitation roadblock is permitted during any solicitation.

(2) The following terms shall apply in the interpretation and application of this section:

- (a) "Solicitation roadblock" shall mean the solicitation by any person of money on or in the right of way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in or upon motor vehicles.

(b) "Street," "road," "highway," and "public way and place" shall include the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right of way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic.

(3) A roadblock shall not be permitted to be set up for more than a five (5) hour interval and any organization shall not be allowed to hold more than one permit at any given time. At the time of the application, the applicant may choose an alternate date for the roadblock in case of inclement weather. The maximum number of permits that may be issued per calendar year to each organization is two (2). These permits will be issued on a first come-first served basis. If the roadblock is cancelled due to inclement weather, it shall not be counted toward the maximum number of permits allowed during a calendar year.

(4) The roadblock permit shall be issued by the city recorder after approval is given by the board of mayor and aldermen. All roadblock workers must carry a copy of this permit and must exhibit their permit at the request of any policeman or citizen.

(5) All roadblock workers must be at least eighteen (18) years of age and must wear highly visible clothing which must include an orange safety vest.

(6) All organizations conducting a roadblock must place a proper form of notification at each roadblock location to warn motorists of "Roadblock Ahead," and provide a flyer to each contributor.

(7) All organizations conducting a roadblock must remove all signs upon the completion of the roadblock. (1994 Code, § 9-307, modified)

CHAPTER 3

TAXICABS¹

SECTION

- 9-301. Taxicab franchise and privilege license required.
- 9-302. Requirements as to application and hearing.
- 9-303. Liability insurance or bond required.
- 9-304. Revocation or suspension of franchise.
- 9-305. Mechanical condition of vehicles.
- 9-306. Cleanliness of vehicles.
- 9-307. Inspection of vehicles.
- 9-308. License and permit required for drivers.
- 9-309. Qualifications for driver's permit.
- 9-310. Revocation or suspension of driver's permit.
- 9-311. Drivers not to solicit business.
- 9-312. Parking restricted.
- 9-313. Drivers to use direct routes.
- 9-314. Taxicabs not to be used for illegal purposes.
- 9-315. Miscellaneous prohibited conduct by drivers.
- 9-316. Transportation of more than one passenger at the same time.

9-301. Taxicab franchise and privilege license required. (1) It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license.

(2) Before a franchise will be granted, the franchisee shall pay a one-time franchise application fee of one hundred dollars (\$100.00). Annually thereafter, on or before January 1, the franchisee shall pay a franchise renewal fee of fifty dollars (\$50.00) per taxicab registered for operation in the city. It is the duty of the franchisee to provide the number and identifying information for each taxicab operating in the town. All taxicabs and drivers operating under a franchise hereunder must be registered with the town. (1994 Code, § 9-401, modified)

9-302. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and

¹Municipal code reference
Privilege taxes: title 5.

address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. Within forty-five (45) days after receipt of an application, the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the board of mayor and aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board of mayor and aldermen shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make application under this section but shall be required to comply with all of the other provisions hereof. (1994 Code, § 9-402, modified)

9-303. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1994 Code, § 9-403)

9-304. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1994 Code, § 9-404)

9-305. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless it 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 motor vehicle 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. (1994 Code, § 9-405)

9-306. Cleanliness of vehicles. All taxicabs operated in the municipality 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. (1994 Code, § 9-406)

9-307. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1994 Code, § 9-407)

9-308. License and permit required for drivers. (1) No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police.

(2) A person seeking a taxicab driver's permit must submit an application as herein below provided and submit a one-time taxicab driver application fee of twenty-five dollars (\$25.00). Said taxicab driver's permit shall be effective for one (1) year from the date of issuance. A taxicab driver's permit may be renewed on or within ten (10) days of the expiration of the taxicab driver's permit upon the completion of a renewal application and payment of a taxicab driver's renewal fee of ten dollars (\$10.00). Failure to renew a taxicab driver's permit within the stated time will require the applicant to apply for a new permit and pay the taxicab driver application fee. (1994 Code, § 9-408, modified)

9-309. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

(1) Makes written application to the chief of police.

(2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.

(3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

(5) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.

(6) Is familiar with the state and local traffic laws. (1994 Code, § 9-409, modified)

9-310. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab

driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1994 Code, § 9-410)

9-311. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1994 Code, § 9-411)

9-312. 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 to interfere unreasonably with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1994 Code, § 9-412)

9-313. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1994 Code, § 9-413)

9-314. 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. (1994 Code, § 9-414)

9-315. Miscellaneous prohibited conduct by drivers. It shall be unlawful for 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. (1994 Code, § 9-415)

9-316. 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. (1994 Code, § 9-416)

CHAPTER 4**POOL ROOMS**¹**SECTION**

9-401. Prohibited in residential areas.

9-402. Hours of operation regulated.

9-401. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1994 Code, § 9-501)

9-402. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire between the hours of 3:00 A.M. and 5:00 A.M. Monday through Saturday or between the hours of 3:00 A.M. Sunday and 12:00 P.M. (noon) Sunday. (1994 Code, § 9-502, modified)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 5

CABLE TELEVISION

SECTION

9-501. To be furnished under franchise.

9-501. To be furnished under franchise. Cable television service shall be furnished to the City of La Vergne and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of La Vergne and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹ (1994 Code, § 9-601)

¹For complete details relating to the cable television franchise agreement see Ord. #94-3, dated May 3, 1994, in the office of the city recorder.

CHAPTER 6

WRECKER SERVICES¹

SECTION

- 9-601. Definition of terms.
- 9-602. Purpose and intent of chapter.
- 9-603. Wrecker franchise and privilege license requirement.
- 9-604. Requirements as to application and hearing.
- 9-605. Liability insurance or bond required.
- 9-606. Revocation or suspension of franchise.
- 9-607. Mechanical condition of vehicles.
- 9-608. Equipment required.
- 9-609. Inspection of vehicles.
- 9-610. License and permit for drivers.
- 9-611. Rotating schedule.
- 9-612. Use of scheduled service.
- 9-613. Use of owner-requested services.
- 9-614. Acceptable response time.
- 9-615. Revocation or suspension of driver's permit.
- 9-616. Wreckers not to be used for illegal purposes.
- 9-617. Miscellaneous prohibited conduct by drivers.
- 9-618. Schedule of rates and billing procedures.
- 9-619. Street cleaning.
- 9-620. Storage of towed vehicles.
- 9-621. Retrieving of towed vehicles.

9-601. Definition of terms. For purposes of this chapter, the following terms shall be defined as follows:

(1) "Cruising." The driving of a wrecker on the streets, alleys, or public places of the city in a fashion or manner calculated for the purpose of soliciting business.

(2) "Driver." Any person driving a wrecker upon the streets and roads of the city.

(3) "License." A copy of the approved tow rotation application will serve as a wrecker service's license to participate in the scheduled tow rotation monitored by the La Vergne Police Department. Any current wrecker service that has continually provided scheduled tow rotation service for the La Vergne Police Department since January 1, 1990 is considered grandfathered, and exempt from having a tow rotation application on file.

¹Municipal code reference
Privilege tax: title 5, chapter 2.

(4) "Number of wrecker services." The number of wrecker services on the scheduled rotation shall be based on the population of the city. One (1) wrecker service will be added to the rotation list for every ten thousand (10,000) people, based on the official census results. A new wrecker service will be added when the population is five thousand one (5,001) into the next ten thousand (10,000) of population.

(5) "Permit." A permit required and issued by the city to a licensee for each wrecker operated by the licensee under the authority of a license. This permit will document that the tow vehicle has passed the annual tow vehicle inspection.

(6) "Rates and charges." Any charges assessed for transporting, towing, or conveying a vehicle by a wrecker and storage of said vehicle.

(7) "Rate card." A rate card issued by the city for display in each wrecker which contains the mandatory rates or charges then in force. A copy of La Vergne Municipal Code § 9-618 will meet the rate card requirement. The purpose of the rate card being required in each tow vehicle is to inform the public of authorized rates that will apply to their vehicle being towed by a City of La Vergne authorized wrecker service.

(8) "Schedule of wrecker services." A list of licensed wrecker services who have applied to the chief of police to be placed on a rotating schedule for towing of unattended or abandoned vehicles or vehicles involved in accidents, custodial arrests, or where operator is unable to operate said vehicle safely. Said members of schedule must provide twenty-four (24) hour service.

(9) "Wrecker." A public motor vehicle constructed on a truck chassis with lifting devices operated by mechanical power and employed or used for the purpose of towing, transporting, conveying, or removing any and all kinds of vehicles which are unable to be or actually are not operated under their own power. (Ord. #2008-10, July 2008)

9-602. Purpose and intent of chapter. It is hereby declared to be the purpose and intent of this chapter to regulate all wreckers, towing services, and wrecker services doing business for the city. The provisions of this chapter shall not apply to a wrecker service located outside the territorial jurisdiction of the city and which occasionally passes through the city. (Ord. #2008-10, July 2008)

9-603. Wrecker franchise and privilege license requirement. It shall be unlawful for any person to engage in the wrecker business unless he has first obtained a wrecker franchise from the city and has a currently effective privilege license. (Ord. #2008-10, July 2008)

9-604. Requirements as to application and hearing. To be eligible for a wrecker franchise, the applicant's storage lot must be located within the city limits of La Vergne. No person shall be eligible for a wrecker franchise if he has a bad character or has been convicted of a felony within the last ten (10)

years. Applications for wrecker franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of wreckers the applicant desires to operate, the makes and models of said wreckers, and such other pertinent information as the chief of police may require. Within ten (10) days after receipt of an application, the chief of police shall make or cause to be made a thorough investigation of the applicant to determine if there is a public need for additional wrecker service and whether or not to grant the franchise for additional service, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional wrecker franchise. (Ord. #2008-10, July 2008)

9-605. Liability insurance or bond required. No wrecker franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to three hundred thousand dollars (\$300,000) or that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12, whichever is greater. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days written notice is given by the insurer to both the insured and the recorder of the city. (Ord. #2008-10, July 2008)

9-606. Revocation or suspension of franchise. The chief of police or his designee may revoke or suspend any wrecker franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the wrecker owner or any driver. (Ord. #2008-10, July 2008)

9-607. Mechanical condition of vehicles. It shall be unlawful for any person to operate any wrecker in the city unless such wrecker is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the state motor vehicle law. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide the safety of the public and the continuous satisfactory operation of the wrecker, as described in the wrecker service inspection guidelines provided by the chief of police or his designee to each franchise holder. (Ord. #2008-10, July 2008)

9-608. Equipment required. At the time of application for a license, the chief of police or his designee shall direct that the applicants be furnished in writing a list of such equipment as the chief of police deems minimum equipment, and the licensee shall carry and have available at all times and in good working order such minimum equipment until a new list is furnished the

licensee. Such list of equipment as furnished shall include but may not be limited to fire extinguishers, crowbars, shovels, brooms, axes, flags, and reflecters. (Ord. #2008-10, July 2008)

9-609. Inspection of vehicles. All wreckers shall be inspected at least annually by the chief of police or his designee, to insure that they comply with the requirements of this chapter with respect to mechanical condition, equipment, etc. Inspection, of a tow vehicle, by the Tennessee Highway Patrol may be accepted to meet this requirement after the chief of police or designee reviews the inspection report and confirms the report's findings. (Ord. #2008-10, July 2008)

9-610. License and permit for drivers. No person shall drive a wrecker unless he is in possession of the appropriate state drivers license and a current city permit. No wrecker may be operated as part of the city rotation schedule without a current rate card visibly displayed inside the cab of the wrecker. (Ord. #2008-10, July 2008)

9-611. Rotating schedule. A rotating schedule will be prepared on a calendar year basis by the chief of police, or his designee showing a weekly rotation of each service. This schedule will be amended as services are approved or omitted from the list of scheduled services. An updated copy of the rotation schedule will be presented to each scheduled wrecker service before it becomes effective. (Ord. #2008-10, July 2008)

9-612. Use of scheduled service. Scheduled services will be used exclusively on all abandoned and all unattended vehicles which in the opinion of a duly authorized police officer are in violation of the municipal code. (Ord. #2008-10, July 2008)

9-613. Use of owner-requested services. The choice of the owner or operator will be honored if, in the opinion of the police officer in charge, the owner or operator is competent to make a responsible decision. If, in the opinion of the officer in charge, the owner or operator is unable to make a responsible decision, the scheduled service will be requested. In all cases, however, if in the opinion of the officer in charge, there is sufficient danger due to road hazard or other just cause, the officer in charge may insist on the scheduled service.

9-614. Acceptable response time. Up to three (3) local public service telephone numbers will be made available to the chief of police or his designee for each service. Upon a request for a wrecker, each of these numbers, in order given, will be attempted by the police dispatcher. The dispatcher will allow five (5) rings at each number before going on to the next number. If contact is not made on all three (3) numbers, the next scheduled service will be attempted.

The time of actual contact will be logged on the official radio log of the La Vergne Police Department. Wrecker service response time will be twenty (20) minutes on workdays from 7:30 A.M. until 5:00 P.M., and thirty (30) minutes during off-duty times such as nights, weekends, and holidays. After the designated response time has passed, if the wrecker has not arrived on the scene, the next scheduled service may be summoned. In this event, the original service summoned will not be allowed to make the tow and will receive no compensation for the call. Five (5) missed calls in any one (1) calendar month is justification for elimination from the schedule for a period of six (6) months. The time of contact on the original call that is to be logged on the police log will be used on scheduled calls to determine the rate to be charged. A wrecker service cannot claim a service call fee when notified by the La Vergne Police Department to cancel due to the wrecker service not responding within the response time described within this chapter. (Ord. #2008-10, July 2008)

9-615. Revocation or suspension of driver's permit. The chief of police, or his designee may revoke or suspend any wrecker driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-610. (Ord. #2008-10, July 2008)

9-616. Wreckers not to be used for illegal purposes. No wrecker shall be used for or in the commission of any illegal act, business, or purpose. (Ord. #2008-10, July 2008)

9-617. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any wrecker driver, while on duty, to be under the influence of or to drink any intoxicating beverage or beer; to use profane or obscene language; unnecessarily to blow the automobile horn; or otherwise unreasonable to disturb the peace, quite, and tranquility of the city in any way. (Ord. #2008-10, July 2008)

9-618. Schedule of rates and billing procedures. By the 10th day of each month the wrecker services on the rotation schedule shall submit an invoice to the chief of police for all of the vehicles, that the police department is responsible for, that was towed during the previous month. The invoice shall contain at least the following information:

- (1) Date of tow;
- (2) Location the vehicle was towed from;
- (3) Vehicle make and model; and
- (4) The vehicle identification number.

Towing, transporting, and storage rates shall not exceed the following unless written authorization is agreed to by the wrecker service and owner or operator of the vehicle:

- (1) Vehicles within the city limits not requiring winch or dolly: \$90.00 plus \$2.50 per mile.
- (2) Vehicles within the city limits requiring rollback: \$90.00.
- (3) Vehicles within the city limits requiring winch: \$45.00 per hook.
- (4) Vehicles within the city limits requiring dolly: \$45.00.
- (5) Storage maximum: \$25.00 per day (outside) \$40.00 per day (inside if required)
- (6) Miscellaneous charges, such as disconnecting drive shafts, changing wheels, use of torch or other cutting equipment, and labor for removing vehicles from unusual places or positions shall be charged at a maximum of \$50.00 per hour per person.
- (7) Cleaning street: Maximum \$40.00
- (8) Use of oil dry to clean street: \$15.00 per bag.
- (9) Wait time: \$75.00 per hour after the first hour.
- (10) Any city passenger car or pick-up up to one-half ton towed within the city limits, flat rate of \$65.00
- (11) Service charge: \$35.00. (Example: Wrecker service is called to tow a vehicle and is cancelled prior to arrival based on the decision of the vehicle owner or the requesting officer. If the requested wrecker service arrives on the scene and is not permitted to tow the vehicle.)
- (12) Gate fee: \$30.00. To be charged for release of towed vehicles after business hours. (Ord. #2008-10, July 2008)

9-619. Street cleaning. Wrecker personnel shall be required to remove all debris from the city right-of-way before leaving the scene. (Ord. #2008-10, July 2008)

9-620. Storage of towed vehicles. Vehicles towed for violation of city ordinances requiring storage will be taken to the franchise holder's lot unless otherwise requested by the ranking police officer on the scene. Vehicles and contents on franchise holder's lots are the total responsibility of the franchise holder. This responsibility will begin upon the signing of a "tow-in" form prescribed by the chief of police. A tow slip shall be completed by La Vergne Police personnel for all vehicles towed at the direction of the La Vergne Police Department, especially those that are abandoned, involved in an arrest, have special instructions, or are taken to a La Vergne Police Department Impound Lot. (Ord. #2008-10, July 2008)

9-621. Retrieving of towed vehicles. Persons retrieving towed vehicles must first have release of vehicle from the La Vergne Police Department, if a hold or special instructions have been applied to a towed vehicle. All wrecker services on twenty-four (24) hour rotating schedule must allow vehicles to be retrieved on a twenty-four (24) hour basis. Any vehicle retrieved by the owner after the normal business hours of the wrecker service

may be subject to a gate fee, not to exceed thirty dollars (\$30.00), by the wrecker service. The wrecker service shall release towed vehicles to the owner after the owner has shown proof of ownership by presenting vehicle ownership documents and a state issued identification card or driver license. (Ord. #2008-10, July 2008)

CHAPTER 7

YARD SALES

SECTION

9-701. Definition.

9-702. Advertisement signs.

9-703. Removal of signs.

9-701. Definition. Any offering for sale to the general public of goods from a place not normally engaging in such business shall be considered a yard sale. Continuing sale from the same location shall be considered a business and require that the provisions of title 5, chapter 2 of this code be followed. (1994 Code, § 9-801)

9-702. Advertisement signs. Advertisement signs shall be placed only in locations not blocking the view of traffic and shall follow all state and local laws governing their placement. (1994 Code, § 9-802)

9-703. Removal of signs. All advertisement signs shall be removed from public rights-of-way as regulated by article 4, section 4.070, paragraph H of the City of La Vergne Zoning Ordinance. Failure to do so shall result in the general penalty clause for this code of ordinances being imposed. (1994 Code, § 9-803, modified)

CHAPTER 8

SEXUALLY ORIENTED BUSINESS

SECTION

- 9-801. Purpose and findings.
- 9-802. Commercial sexual activity prohibited.
- 9-803. Location of adult business.
- 9-804. Peep shows.
- 9-805. Sexually oriented establishment restrictions.
- 9-806. Employee or entertainer restrictions.
- 9-807. Violations.
- 9-808. Sexually oriented business providing specified services.
- 9-809. Hours of operation.
- 9-810. Order of closure.
- 9-811. Compliance with other laws.
- 9-812. Scierer required to prove violation or employer liability.
- 9-813. Severability.

9-801. Purpose and findings. (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 adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene 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), *Triplitt 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 other studies in other communities including, but 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 6, 1989, State of Minnesota), the council finds:

(a) Sexually oriented businesses in the listed cities have lent 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 types of establishments responsible for the activities that occur on the premises in the City of La Vergne, Tennessee.

(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 semi-private 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 December 31, 2002, there have been 9,924 reported cases of persons with HIV/AIDS living 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-half 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 or 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 simulate 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 placed a peeled banana between their legs while female "dancers" have eaten the banana. (DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1977).

(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 Tennessee Code Annotated, § 39-13-512(5). (DLS, Inc. v. City of Chattanooga, 894 F. Supp. 1140 (E.D. Tenn. 1995).

(r) The findings noted in paragraphs 1 through 17 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 sexually oriented business employees:

(i) Avoid full nudity by maintaining minimal coverage over their genitals (and the nipple/areola portion of the female breast), *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000);

(ii) Appear semi-nude only upon a stage at least six feet from patrons, *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1977); and not receive tips directly from patrons, *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); will help prevent certain types of illicit and unhealthy sexual conduct on the premises of sexually oriented businesses which leads to the transmission of sexually oriented diseases.

(u) The general welfare, health, and safety of the citizens of the City of La Vergne will be promoted by the enactment of this chapter. (1994 Code, § 9-901)

9-802. Commercial sexual activity prohibited. (1) It shall be unlawful for any person to procure, to offer or to engage in any act of anilingus, bestiality, cunnilingus, coprophilia, fellation, flagellation, frottage, masturbation, sexual intercourse, sodomy or urolangnia for any financial consideration or reward.

(2) As used in this section, the following words shall have the meanings ascribed in this subsection:

(a) "Anilingus" means erotic stimulation achieved by contact between mouth or tongue and the anus.

(b) "Bestiality" means sexual relations between a human being and a lower animal.

(c) "Coprophilia" means use of feces for sexual excitement.

(d) "Cunnilingus" means stimulation of the vulva or clitoris with the lips.

(e) "Fellation" means the practice of obtaining sexual gratification by oral stimulation of the penis.

(f) "Flagellation" means an act or instance of obtaining sexual gratification by beating, flogging or scourging another, or being the recipient of such action.

(g) "Frottage" means masturbation by rubbing another person.

(h) "Masturbation" means erotic stimulation involving the genital organs, commonly resulting in orgasm and achieved by manual or other bodily manipulation.

(i) "Sexual intercourse" means carnal copulation of male and female implying actual intercourse of the organs of the latter.

(j) "Sodomy" means penetration of the male organ into the anus of another person.

(k) "Urolangnia" means sexual excitement associated with the urine or urination. (1994 Code, § 9-902)

9-803. Location of adult business. (1) For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this subsection:

(a) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock in trade, books, films, video cassettes, DVDs, 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."

(b) "Adult cabaret" means an establishment which regularly features as a principle use of its business employees, as defined below, 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.

(c) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has as a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities of exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed.

(d) "Adult mini motion picture theatre" means an enclosed building with a capacity for 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;

(e) "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 below, for observation by patrons therein:

(f) "Sexually-oriented businesses," or "sexually-oriented establishments," includes "adult-bookstores," "adult cabarets," "adult mini-motion picture theaters," "adult motion picture theaters," "escort," "escort service," "sexual encounter center," "massage parlor," "rap parlor," "sauna," or "adult motel."

(g) "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 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.

(h) "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;

(i) "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.

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

(A) Operates from an open office;

(B) Does not employ or use an escort runner; and

(C) Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau which so advertises; and

(D) Does not offer or provide sexual conduct.

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

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

(B) Works for, as an agent, employee, contractor, or is referred to a patron by a sexually oriented escort bureau; or

(C) 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

(D) 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; or

(E) 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

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

(j) "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.

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

- (A) Maintains an open office at an established place of business; and
 - (B) Employs or provides only escorts which possess valid permits issued under this chapter; and
 - (C) Does not use an escort bureau runner; and
 - (D) Does not advertise that sexual conduct will be provided to a patron.
- (ii) A "sexually oriented escort bureau" is an escort bureau which:
- (A) Does not maintain an open office; or
 - (B) Employs as an employee, agent or independent contractor, uses an escort bureau runner; or
 - (C) 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
 - (D) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron; or
 - (E) Employs, contracts with or provides or refers escorts who do not possess valid permits issued under this chapter; or
 - (F) Does not deliver contracts to every patron or customer; or
 - (G) Employs, contracts with a sexually oriented escort or refers or provides to a patron, a sexually oriented escort.
- (k) "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;
- (l) "Operator" means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment;
- (m) "Person" means an individual, partnership, limited partnership, firm, corporation or association;
- (n) "Specified anatomical areas" means:
- (i) Less than completely and opaquely covered:
 - (A) Human genitals;
 - (B) Pubic region;
 - (C) Buttocks; and
 - (D) Female breasts below a point immediately above the top of the areola; and
 - (ii) Human male genitals in a discernibly turgid state, even if completely opaquely covered.
- (o) "Specified sexual activities" means:

(i) Human genitals in a state of sexual stimulation or arousal;

(ii) Acts of human masturbation, sexual intercourse or sodomy; or

(iii) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(p) "Specified criminal acts" means sexual crimes against children, sexual abuse, rape, indecent exposure, distribution of obscenity, distribution of obscenity or harmful materials to minors, prostitution, pandering, or tax violations.

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

(r) "Sexual gratification" means "sexual conduct" as defined in this chapter.

(s) "Sexual conduct" means the engaging in or the commission of act of sexual intercourse, oral-genital contact, sodomy, or masturbation.

(t) "Specified services" means massage services, and acting as an "escort" as defined in this chapter.

(u) "Sexual encounter center" means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(i) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(ii) 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 covered by translucent material.

(v) "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.

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

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

(i) A steam bath; or

(ii) Massage services.

(y) "Adult motel" means a hotel, motel, or similar commercial establishment that:

(i) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, video reproductions, slides, or other reproductions offered in photographic, electronic, magnetic, digital, or other imaging medium or other visual representations that are distinguished or characterized by an emphasis on matters that depict or describe "specified sexual activities" or "specified anatomical areas" and has a sign visible from the public right-of-way which advertises the availability of adult, nude, sex, or "XXX" movies, videos, films, or other similar reproductions; or

(ii) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(iii) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

(2) It shall be unlawful to establish, operate or maintain any adult business, that is adult bookstore, adult motion picture theatre, adult mini motion picture theatre or adult cabaret, within the city, if the proposed location is within one thousand (1,000) feet of:

(a) A residentially zoned district;

(b) Any area which is devoted in part or exclusively to recreational activity;

(c) Any school, park, church, mortuary or hospital;

(d) Any adult business as defined by this section; or

(e) Any other regulated use, including but not limited to establishments authorized to sell any alcoholic beverages for on- or off-premises consumption.

(3) No sexually oriented business may begin to operate except within the confines of an I-2 (HEAVY INDUSTRIAL) zoning district as defined under the zoning laws of the city.

Nothing contained in this section shall be construed to authorize the establishment or operation of any adult business which is otherwise prohibited or made unlawful by any other law or ordinance. (1994 Code, § 9-903)

9-804. Peep shows. (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

(a) It shall be the duty of the operator, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.

(b) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no openings of any kind exist between viewing rooms. No person shall make an attempt to make an opening of any kind between viewing rooms.

(c) The light level in such establishments shall not be less than ten (10) candles at floor level.

(d) It shall be the duty of the operator to ensure that premises are clean and sanitary. Such duty shall be fulfilled if the operator complies with the following procedures:

(i) The operator shall maintain a regular cleaning schedule of at least two cleanings per day, documented by appropriate logs.

(ii) The operator shall provide an employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least twice each week. Prior to collection, solid waste shall be stored in a manner which prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.

(iii) Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this paragraph must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls,

merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises. (1994 Code, § 9-904)

9-805. Sexually oriented establishment restrictions. It shall be unlawful for any person maintaining, owning or operating a sexually-oriented establishment located within the City of La Vergne, Tennessee:

(1) To permit any employee or entertainer to fondle or caress any patron or to permit any patron to fondle or caress any entertainer or employee; or

(2) To permit any entertainer while exposing any specified anatomical area, as defined herein, to knowingly or intentionally touch a customer or the clothing of a customer; or

(3) To permit any entertainer while exposing any specified anatomical areas, as defined herein, to knowingly or intentionally be or remain in any location other than on a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest customer; or

(4) To permit any employee or entertainer to solicit any pay or gratuity from any patron while performing; or

(5) (a) To permit any employee or entertainer, while on the premises of the adult-oriented establishment to:

(i) Engage in sexual intercourse;

(ii) Engage in deviant sexual conduct;

(iii) Appear in a state of nudity;

(iv) Fondle the genitals of himself or another person.

(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; or

(6) To permit any intoxicating liquor, cereal malt beverage, narcotic or controlled substance to be sold or consumed on the premises of the adult-oriented establishment. (1994 Code, § 9-905)

9-806. Employee or entertainer restrictions. It shall be unlawful for any employee or entertainer at an adult-oriented establishment located within the City of La Vergne, Tennessee:

(1) To fondle or caress any patron or to permit any patron to fondle or caress any entertainer or employee; or

(2) To knowingly or intentionally touch a customer or the clothing of a customer while exposing any specified anatomical areas as defined herein; or

(3) To knowingly or intentionally be or remain in any location other than on a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest customer while exposing any specified anatomical areas as defined herein; or

- (4) To solicit any pay or gratuity from any patron while performing; or
- (5) (a) To, while on the premises of an adult-oriented establishment:
 - (i) Engage in sexual intercourse;
 - (ii) Engage in deviant sexual conduct;
 - (iii) Appear in a state of nudity;
 - (iv) Fondle the genitals of himself or another person.
- (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. (1994 Code, § 9-906)

9-807. Violations. Any person violating this chapter shall commit an offense against the City of La Vergne, Tennessee, and upon conviction shall be fined under appropriate state law, or shall be fined for a conviction within the City Court of La Vergne, Tennessee, with a fine of up to fifty (\$50.00) dollars for each violation. (1994 Code, § 9-907)

9-808. Sexually oriented businesses providing specified services. Sexually oriented businesses that provide "specified services" for customers or patrons shall:

- (1) Provide patrons with written contracts and receipts that show:
 - (a) "Specified service" provided;
 - (b) Cost of "specified service;"
 - (c) Date and time of service provided;
 - (d) Signature of customer or patron and signature or initials of permit holder providing the "specified service;"
 - (e) Method of payment for service.
- (2) Keep copies of contracts and receipts on file for two years.
- (3) Keep copies on file of all published advertisements. (1994 Code, § 9-908)

9-809. Hours of operation. (1) No sexually-oriented business shall be open before eight o'clock A.M. (8:00 A.M.), Monday through Saturday; and no such establishment shall remain open after twelve o'clock (12:00) midnight, Monday through Saturday. No adult oriented establishment shall be open for business on any Sunday or a legal holiday as designated in Tennessee Code Annotated, § 15-1-101.

(2) Sexually oriented businesses and sexually oriented business employees shall permit officers or agents of the city to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually

oriented business is occupied by patrons or is open for business. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize an excessive pattern of inspections. (1994 Code, § 9-909)

9-810. Order of closure. Upon a second or subsequent violation of any part of this chapter, any real property found to be in violation of the requirements stated in this chapter will also be subject to an order of closure, and/or cease and desist, by chancery court action seeking injunctive relief to enforce the provisions of this law, provided, that such second or subsequent violation occurs after a conviction has been obtained for the previous such violation. (1994 Code, § 9-910)

9-811. Compliance with other laws. All persons operating a sexually oriented business within the city limits of La Vergne, Tennessee shall obey and follow all state statutes, including but not limited to all statutes concerning nudity and shall also comply with any licensing requirements which may be required under state or county law. (1994 Code, § 9-911)

9-812. Scienter required to prove violation or employer liability. This chapter does not impose strict liability. If the culpable mental state for an offense herein is not specified, then a knowing or intentional act is required to establish the offense. Additionally, notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee shall be imputed to a sexually oriented business operator for the purpose of establishing a violation of this chapter only if an operator allowed, either knowingly or intentionally, a violation of this chapter to occur. It shall be a defense to liability that the operator was powerless to prevent the violation. (1994 Code, § 9-912)

9-813. Severability. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause, or provision of this chapter. (1994 Code, § 9-913)