

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

1. PEDDLERS, ETC.
2. TAXICABS.
3. POOL ROOMS.
4. SALE OF PRODUCTS CONTAINING EPHEDRINE,  
PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE.

**CHAPTER 1****PEDDLERS, ETC.<sup>1</sup>****SECTION**

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**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 therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1989 Code, § 5-401)

**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

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<sup>1</sup>For privilege tax provisions, etc., see title 5 in this code.

bona fide charitable, religious, patriotic, or philanthropic organizations. (1989 Code, § 5-402)

**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) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
- (7) A recent photograph of the applicant which picture shall be approximately two inches (2) square showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (8) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.
- (9) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.
- (10) The last cities or towns, at least three (3) preferably, 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.
- (11) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1989 Code, § 5-403)

**9-104. Issuance or refusal of permit.** (1) Each application shall be referred to the chief of police for investigation of the applicant's moral reputation and business responsibility, who shall report to the city recorder his findings within seventy-two (72) hours.

(2) If as a result of such investigation, the chief of police reports the applicant's moral reputation and/or business responsibility to be unsatisfactory

and his reasons therefor, the city recorder shall thereupon notify the applicant that his application is disapproved and that no permit will be issued.

(3) If such investigation indicates that the moral reputation and business responsibility of the applicant are satisfactory, upon payment of all applicable privilege taxes<sup>1</sup> the city recorder shall deliver to the applicant a permit. The city recorder shall keep a permanent record of all permits issued. (1989 Code, § 5-404)

**9-105. Appeal.** Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the municipal governing body. 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. (1989 Code, § 5-405)

**9-106. Bond.** Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of five hundred dollars (\$500.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality 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, but the surety may, by paying, pursuant to the 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. (1989 Code, § 5-406)

**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 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

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<sup>1</sup>For provisions relating to privilege taxes, see title 5 in this code.

upon the adjacent streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1989 Code, § 5-407)

**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 such operation might impede or inconvenience the public use of such 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. (1989 Code, § 5-408)

**9-109. Exhibition of permit.** Permittees are required to exhibit their permits at the request of any policeman or citizen. (1989 Code, § 5-409)

**9-110. Policemen to enforce.** It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1989 Code, § 5-410)

**9-111. Revocation or suspension of permit.** (1) Permits issued under the provisions of this chapter may be revoked by the municipal governing body after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit.

(b) Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(c) Any violation of this chapter.

(d) Conviction of any crime or misdemeanor.

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

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

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1989 Code, § 5-411)

**9-112. Reapplication.** No permittee whose permit has been revoked shall make further application until a period of at least six (6) months shall have elapsed since the last revocation. (1989 Code, § 5-412)

**9-113. 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 but shall automatically 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 one (1) year. (1989 Code, § 5-413)

**9-114. Special provisions for "transient dealers."** (1) All transient dealers as hereinafter defined by paragraph (a) of this section shall pay a license based on the following schedule:

<u>If Anticipated Sales Are</u>	
\$10,000 or less	\$100.00
More than \$10,000 but less than \$25,000	\$200.00
More than \$25,000 but less than \$50,000	\$300.00
More than \$50,000 but less than \$100,000	\$400.00
Over \$100,000	\$500.00
Plus 1/10th of 1% of gross receipts, less \$100,000.	

(a) **Definitions.** The words "transient dealers" for the purpose of this section shall mean and include all persons, both principals and agents who engage or conduct in this town either in one locality or in traveling from place to place, a temporary or transient business of selling or soliciting orders for the sale of goods, wares, or merchandise with the intention of continuing in said business in said town for a period of not more one hundred eight (180) days, and who rent, lease, use or occupy, either in whole or in part, for the purpose of carrying on such business use, any room, building, area within the Town of Livingston, or other public or privately-owned building, any lot or parcel of land, any motor vehicle including trucks and semi-trailers for the exhibition and sale of such goods, wares and merchandise, but the provisions of this section shall not apply to sales of food or agricultural produce, peddlers, or sales

of novelties otherwise licensed under this code and where stock or anticipated sales are valued or anticipated at two thousand dollars (\$2,000.00) or to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares, or merchandise for future delivery in interstate commerce, where either no measurements or design specifications are made or prepared in the town, or where no payment or deposit is collected in the town as a condition for the placement of orders, or where no license may be collected under the provisions of the constitution or laws of the United States, nor to sales of goods, wares or merchandise on the grounds of any agricultural society during the continuance of any annual fair held by such society, nor any sales by societies acting for charities, religious or public purposes, nor to any yard or rummage sale.

(b) Application. At least twenty (20) days prior to holding of such sale or solicitation, every such transient dealer shall furnish to the recorder of the Town of Livingston a verified license application setting out the following:

(i) Name and address of the applicant and also the name of the true owner if the applicant is not such true owner of the goods, wares or merchandise to be sold;

(ii) Name, location and time of the proposed sale or solicitation;

(iii) Inventory of the goods, wares or merchandise, on hand and on order, which the applicant intends to offer for sale at such sale. The inventory shall show the quantity, kind or grade of each item, the wholesale cost thereof, the price at which each item is proposed to be sold, and the total wholesale and retail value of the inventory based on the foregoing, and if sales are to be made other than from inventory, a copy of the catalogue or other sales materials, and/or a listing of the samples to be displayed.

(iv) A statement of the amount of gross receipts realized from each sale conducted in the Town of Livingston by applicant, and the date(s) thereof, if such sale was within the preceding five (5) years.

(v) Address of any permanent place of business in the State of Tennessee, or, if there be no permanent place of business in the State of Tennessee, a copy of a certificate of the Secretary of the State of Tennessee evidencing the fact that the dealer has qualified to do business in Tennessee and the name and address of its agent for the service of process in the state.

(vi) Such other information as the recorder may prescribe.

(c) Deposits and bonds. Every applicant for a transient dealer's license shall execute and file with the recorder a good and sufficient bond in the sum of five thousand dollars (\$5,000.00) or ten percent (10%) of

anticipated sales, whichever is greater, with the surety thereon a surety company authorized to do business in the State of Tennessee approved by said recorder, and shall be payable to the Town of Livingston to the extent that any taxes or fines as determined by the recorder of the town to be due are not paid, and upon judicial determination, to those authorized to file suit thereunder, and shall be conditioned upon faithful observance of all the conditions of this chapter, and the payment of city, county and state license, sales, use, income or occupational license taxes due or to be withheld and paid by the licensee hereunder, and shall also indemnify any purchaser at such sale who suffers any loss by reasons of defective merchandise or any misrepresentation. Said bond shall also provide that the Town of Livingston, Overton County, and State of Tennessee may file suit in their own name against the licensee and/or said surety for claims arising from such a sale. Said bond shall also provide that it shall continue in effect for one year after the termination of the sale for which it is made and until all actions are concluded and the judgment or judgments, if any, have been paid and fully satisfied, or the amount of the bond exhausted by such payments. This bond shall be in addition to all deposits required under other ordinances of the town, including but not limited to the sales and use tax ordinances. The above bond and certificate of qualification to do business in Tennessee shall be public record open to examination upon request.

(d) Reports of sales. All transient dealers shall make a verified sales report within seven (7) days of the close of business.

(e) No sales of goods, wares, or merchandise shall be made on Sunday by a transient dealer licensed hereunder unless otherwise permitted by law.

(f) A transient dealer 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, manufacturer's, wholesale, cancelled order, or misfit sale or closing out, or a sale of any goods damaged by smoke, fire or water otherwise, unless before so doing he shall state in writing under oath to the Recorder of the Town of Livingston at the time he makes application for a license all the facts relating to the reason and character of such special sales, so advertised, held forth or represented, including a statement of the names of persons from who said goods, wares, or merchandise were purchased, and the date of delivery of same to the persons applying for license, the place where said goods, wares, or merchandise were taken last, and such details necessary to exactly locate and fully identify all goods, wares, or merchandise to be sold, and make such further disclosure to and give such information as may be required by the Recorder of the Town of Livingston. Any such transient dealer shall also include in said statement names and residences of the owners in whose interest the business is

conducted and whether conducted as an individual, firm, association or corporation.

(g) It shall be unlawful for any transient dealer to sell or exhibit for sale either at public or private sale any goods, wares or merchandise without first complying with the provisions of this section or to make any false statements in reference to the matter required in subsections (b) and (e) above, or to fail or refuse to comply with the requirements of any of the provisions of this section, and every person, whether principal or agent, who by circular, handbill, newspaper, poster, or in any manner advertises such sales as herein contemplated before proper license is issued to said transient dealer and before he has complied with the provisions of this section, shall be guilty of a violation of this section. Provided, however, that nothing in this section shall be construed as abridging or denying the right and power of the Board of Aldermen of the Town of Livingston to refuse or withhold the granting of any license or to revoke the same, if granted, to a transient dealer upon any hearing thereof when in the discretion of said board of aldermen on the basis of the disclosures as aforesaid, or from other information deemed by them sufficient, such action may be deemed necessary or proper to protect or safeguard the public from imposition, mischief or fraud.

(2) Nothing herein contained shall be construed to relieve any person or other legal entity from any license fee liability, tax liability, interest, penalty or forfeiture incurred as of the effective date. (1989 Code, § 5-414, modified)

**9-115. Not applicable in certain events.** Nothing in this chapter shall be applicable during fairs, festivals, or other similar events, that have been licensed and approved by the board of mayor and aldermen, that do not continue for more than five (5) days. However, peddlers and transient merchants shall not be permitted to block access or view of any permanent business, licensed to do business in the Town of Livingston, without the consent of the owner or manager of said business. (Ord. #2005-6-1, July 2005, modified)



## CHAPTER 2

### TAXICABS<sup>1</sup>

#### SECTION

- 9-201. Taxicab franchise and privilege license required.
- 9-202. Requirements as to application and hearing.
- 9-203. Liability insurance required.
- 9-204. Revocation or suspension of franchise.
- 9-205. Mechanical condition of vehicles.
- 9-206. Cleanliness of vehicles.
- 9-207. Inspection of vehicles.
- 9-208. License and permit required for drivers.
- 9-209. Qualifications for driver's permit.
- 9-210. Revocation or suspension of driver's permit.
- 9-211. Drivers not to solicit business.
- 9-212. Parking restricted.
- 9-213. Drivers to use direct routes.
- 9-214. Taxicabs not to be used for illegal purposes.
- 9-215. Miscellaneous prohibited conduct by drivers.
- 9-216. Transportation of more than one passenger at the same time.

**9-201. Taxicab franchise and privilege license required.** 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. (1989 Code, § 5-501)

**9-202. 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 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 relative information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) 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 governing body; and make a recommendation either to grant or refuse a franchise to the applicant. The

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<sup>1</sup>For privilege tax provisions, etc. see title 5 in this code.

governing body 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 governing body 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 taxicab franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1989 Code, § 5-502)

**9-203. Liability insurance required.** No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of ten thousand dollars (\$10,000.00) for bodily injury or death to any one (1) person, twenty thousand dollars (\$20,000.00) for injuries or death to more than one (1) person which are sustained in the same accident, and five thousand dollars (\$5,000.00) for property damage resulting from any one accident. The required insurance shall inure to the benefit of the municipality and any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a taxicab owner, operator or driver. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after twenty (20) days' written notice is given by the insurer or surety to the recorder of the municipality. (1989 Code, § 5-503)

**9-204. Revocation or suspension of franchise.** The governing body, after a public hearing, may revoke or suspend any taxicab franchise for repeated violations of this chapter or the traffic laws of the municipality by the taxicab owner or his drivers. (1989 Code, § 5-504)

**9-205. Mechanical condition of vehicles.** It shall be unlawful for any taxicab to operate in the municipality unless such taxicab is equipped with proper four (4) wheel brakes, front and rear lights, tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the 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 functions 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. (1989 Code, § 5-505)

**9-206. 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. (1989 Code, § 5-506)

**9-207. Inspection of vehicles.** All taxicabs shall be inspected at least semi-annually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1989 Code, § 5-507)

**9-208. License and permit required for drivers.** 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. The city taxicab driver's permit shall contain a good description of the driver; shall also contain his picture; and, shall at all times be conspicuously displayed by him in any taxicab he is driving. (1989 Code, § 5-508)

**9-209. 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 eighteen (18) years old or over and holds a state special chauffeur's license.
- (3) Is of sound physique, with good eyesight 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) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, or driving under the influence of an intoxicant or drug.
- (7) Is familiar with the state and local traffic laws. (1989 Code, § 5-509)

**9-210. Revocation or suspension of driver's permit.** The governing body, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of this chapter or for repeated violations of the traffic laws of the municipality. (1989 Code, § 5-510)

**9-211. 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. (1989 Code, § 5-511)

**9-212. 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 with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1989 Code, § 5-512)

**9-213. Drivers to use direct routes.** Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1989 Code, § 5-513)

**9-214. 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. (1989 Code, § 5-514)

**9-215. 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 disturb the peace, quiet, and tranquility of the municipality in any way. (1989 Code, § 5-515)

**9-216. 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 the latter. Furthermore, no more than five (5) passengers shall be carried in the same vehicle at anyone time and not more than two (2) passengers shall be seated on the front seat of any cab while the same is in motion. (1989 Code, § 5-516)

## CHAPTER 3

### POOL ROOMS<sup>1</sup>

#### SECTION

9-301. Hours of operation regulated.

9-302. Minors to be kept out; exception.

9-303. View from outside to be unobstructed.

9-304. Gambling, etc., not to be allowed.

**9-301. 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 within the corporate limits at any time on Sunday or between the hours of 12:00 midnight and 6:00 A.M. on any night. (1989 Code, § 5-601)

**9-302. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables kept by a private person and used in private families. (1989 Code, § 5-602)

**9-303. View from outside to be unobstructed.** It shall be unlawful for any owner, keeper, or other person in charge of a billiard or pool room or public place where billiards or pool is allowed to be played, to have, keep, or maintain any character of screen or blind in front of or about the door, or any painted, frosted, or darkened window by which a clear view of the interior of such premises is or may be obstructed or prevented from the outside. (1989 Code, § 5-603)

**9-304. Gambling, etc., not to be allowed.** It shall be unlawful for any person operating, conducting or maintaining any place where pool tables or billiard tables are kept for public use or hire to permit any gambling or other unlawful or immoral conduct on such premises. (1989 Code, § 5-604)

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<sup>1</sup>For privilege tax provisions, etc., see title 5 in this code.

## CHAPTER 4

**SALE OF PRODUCTS CONTAINING EPHEDRINE,  
PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE****SECTION**

- 9-401. Sales limited.
- 9-402. Definitions.
- 9-403. Display of products.
- 9-404. Exceptions.
- 9-405. Retail establishments: violation and training.
- 9-406. Retail establishments: register required.
- 9-407. Penalty for violation.

**9-401. Sales limited.** No person shall sell or deliver, or attempt to sell or deliver, in any single retail sale, a package that contains more than one hundred (100) tablets of any product that contains any quantity of ephedrine, pseudoephedrine or phenylpropanolamine, or any number of packages that contain a combined total of three (3) or more grams of ephedrine pseudoephedrine, or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients. (Ord. #2004-9-1, \_\_\_\_, 2004)

**9-402. Definitions.** (1) The use of the terms "ephedrine," "pseudoephedrine," or "phenylpropanolamine" in this chapter shall include the salts, optical isomers, or salts of optical isomers of ephedrine, pseudoephedrine and phenylpropanolamine.

(2) The use of the term "retail establishment" in this chapter shall include any business entity and individual person who sells, offers for sale or attempts to sell any product containing ephedrine, pseudoephedrine or phenylpropanolamine at retail.

(3) The use of the term "consumer accessible shelving" in this chapter shall mean any area of a retail establishment other than a product display area behind a counter where the public is not permitted, or within a locked display case or within six feet (6') of a register located on a checkout counter. (Ord. #2004-9-1, \_\_\_\_, 2004)

**9-403. Display of products.** All packages of any product containing ephedrine, pseudoephedrine or phenylpropanolamine, whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall not be displayed and offered for sale in any retail establishment on consumer-accessible shelving. (Ord. #2004-9-1, \_\_\_\_, 2004)

**9-404. Exceptions.** This chapter shall not apply as follows:

- (1) To any product labeled pursuant to federal regulation for use only in children under twelve (12) years of age;
- (2) To any products that the state department of health, upon application of a manufacturer, determines has been formulated in such a way as to effectively prevent its use in the illicit manufacture of methamphetamine;
- (3) To any animal feed products containing ephedrine, or naturally occurring or herbal ephedra or extract of ephedra, pseudoephedrine, or phenylpropanolamine; and
- (4) To the sale or delivery of any product containing ephedrine, pseudoephedrine, or phenylpropanolamine pursuant to the lawful prescription of a person authorized by state law to prescribe such products. (Ord. #2004-9-1, \_\_\_\_, 2004)

**9-405. Retail establishments: violation and training.** Any person who is considered the general owner or operator of a retail establishment where products containing ephedrine, pseudoephedrine, or phenylpropanolamine are available for sale who violates this chapter shall not be penalized pursuant to this chapter if such person documents that an employee training program was in place to provide the employees with information on the local, state and federal regulations regarding ephedrine, pseudoephedrine and phenylpropanolamine, and that the employees had completed the training program. (Ord. #2004-9-1, \_\_\_\_, 2004)

**9-406. Retail establishments: register required.** (1) Any retail establishment that sells or delivers, or attempts to sell or deliver, to a person any product containing ephedrine, pseudoephedrine, or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall require such person to show proper identification and to sign a register.

(2) The register described in subsection (1) shall be created by any retail establishment that sells a product or products described in this chapter and shall require at least the following information:

- (a) The specific quantity of ephedra, pseudoephedrine, or phenylpropanolamine purchased;
- (b) The signature of the purchaser;
- (c) The name and residential or mailing address of the purchaser, other than a post office box number;
- (d) The number of the purchaser's motor vehicle operator's license or other proper identification at the time of the purchase;
- (e) A description of how the purchaser intends to use the substance;
- (f) The date of such purchase; and

(g) The signature of an employee of the retail establishment as witness to the purchase and identification of the purchaser.

(3) The retail establishment shall retain each original register for three (3) years in a readily presentable and readable manner, and present the register upon demand by any law enforcement officer or authorized representative of the district attorney general's office.

(4) As used in this section, "proper identification" means a valid motor vehicle operator's license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser.

(5) This section shall not apply to the sell or delivery of any product containing ephedrine, pseudoephedrine, or phenylpropanolamine by a licensed pharmacy upon a pharmacist making a good faith determination that the purchase of the product is for a legitimate medical purpose. (Ord. #2004-9-1, \_\_\_\_, 2004)

**9-407. Penalty for violation.** It is a civil offense to fail to comply with the foregoing regulations. Any violation of these sections is punishable by civil penalty of up to fifty dollars (\$50.00). Each day a violation continues shall constitute a separate offense. (Ord. #2004-9-1, \_\_\_\_, 2004)