

**TITLE 9****BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.
5. CABLE TELEVISION.
6. TAXICABS.
7. YARD SALES, ETC. REGULATED.
8. ADULT-ORIENTED ESTABLISHMENTS.

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

9-101. "Going out of business" sales.

**9-101. "Going out of business" sales.** It shall be unlawful for any person falsely to represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1980 Code, § 5-101)

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

## CHAPTER 2

### PEDDLERS, ETC.

#### SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Temporary sales permit.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets/sidewalks.
- 9-209. Exhibition of permit.
- 9-210. Enforcement and penalties.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

**9-201. Permit required.** It shall be unlawful for any peddler, solicitor (selling door to door for immediate or for future delivery), or temporary sales vendor, to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter and any other town ordinance. No permit shall be transferable. (1980 Code, § 5-201, as replaced by Ord. #467, Aug. 2009)

**9-202. Exemptions.** The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor newspaper carriers, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide local charitable, religious, patriotic, philanthropic, governmental, literary/educational organizations, or to any vendor participating in a bona fide charitable fundraising event. Persons selling homegrown items, who, in fact, themselves produced the products and have not been purchased for resale, or persons having a valid, current Town of Monterey business license are exempt from fees/bond only. (1980 Code, § 5-202, as replaced by Ord. #467, Aug. 2009)

**9-203. Application for permit.** Applicants applying for a permit under this chapter shall file a sworn, written application with the city clerk's office containing the following information and such other pertinent information as may be required:

- (1) Name, date of birth, and social security number;
- (2) Driver's license or other personal identification;
- (3) Home address;

- (4) Local address, if different from home address;
- (5) Name, address and phone number of corporation, company, or organization the applicant is representing;
- (6) A copy of a "Tennessee Certificate of Registration" for the collection of state and local sales or use taxes for sale of tangible personal property or taxable services for customers in Monterey for each Monterey location for which each permit is issued;
- (7) A description of the nature of the business and the goods to be sold;
- (8) A description of any vehicles, including make and model, license plate number and county of registration being used while soliciting or peddling;
- (9) Address of premises to be occupied for the business;
- (10) Proof of zoning approval from Town of Monterey Codes Department or mayor;
- (11) Proof of permission from owner of property that business is to occupy;
- (12) The starting date and ending date of operation of the business;
- (13) The names, addresses and phone numbers of two (2) unrelated references who can certify as to the applicant's good moral reputation and business responsibility;
- (14) A sworn statement as to whether the applicant and additional assistants have been convicted of any crime (felony), or misdemeanor, or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed;
- (15) The last two (2) cities or towns, if any, where the applicant transacted the business;
- (16) An application fee of twenty-five dollars (\$25.00), non-refundable, is required by the Town of Monterey to defray the cost of investigating the application. (1980 Code, § 5-203, as amended by Ord. #408, March 2003, and replaced by Ord. #467, Aug. 2009)

**9-204. Issuance or refusal of permit.** Each application shall be investigated by the town clerk's office and police department. The town clerk's office shall report the results of the investigation within seventy-two (72) hours. Each permit, permittee, or location shall not exceed one hundred eighty (180) calendar days within a calendar year. A fee of seventy dollars (\$70.00) for a minimum of a fourteen (14) day period and each additional fourteen (14) day period shall be assessed to temporary sales vendors, and any peddler, or solicitor. Each applicant must state and purchase the permit for the full term of their business. If, after issuance of a permit has expired, no additional permit shall be issued until a grace period of fourteen (14) days has been honored. (1980 Code, § 5-204, as replaced by Ord. #467, Aug. 2009)

**9-205. Temporary sales permit.** It shall be unlawful for any person to sell on a temporary basis any consumer item (new or used) or service, within the corporate limits of the Town of Monterey without first obtaining a "temporary sales permit." For the purpose of this section a "temporary sales vendor" means any person, persons or corporation who brings into any premise and exhibits stocks of merchandise (new, used or handcrafted) to the public for the purpose of selling or offering to sell merchandise, food/beverages (prepared for consumption), or offering to provide a service on a seasonal/temporary basis or providing amusement/entertainment for profit to the public. "Temporary premises" means any public or quasi-public place, including a hotel, motel, rooming house, storeroom, building or part of a building, mall, pavilion, county fairgrounds (if not sponsored by any exceptions listed in § 9-202), park, convention center, tent, parking lot, vacant lot, public streets/sidewalks (parades and etc. only), railroad car, tractor trailer or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise (new, used, or handcrafted) and/or providing a service to the public for profit to any private shareholder or individual. Premises used by a temporary sales vendor must be cleared of any merchandise/tables/display on the date their permit expires (in an effort to promote the safety/beauty of this city). Premises shall not be considered "temporary" if the same person has conducted business at said premises for more than six (6) consecutive months (open for a minimum of three (3) days per week), and have permanently affixed sanitary facilities providing for hot/cold water supply attached to an approved water/sewer system available to the public during all operating hours at the local address and premises from which the proposed sales are made. Outside flea markets and temporary display of animals (domestic or agricultural), except with the local humane society, for sale or free are prohibited. (1980 Code, § 5-205, as replaced by Ord. #467, Aug. 2009)

**9-206. Bond.** Every permittee shall file with the city clerk's office a cash bond or other approved bond (surety bond/company bond) running to the municipality in the amount of two thousand, five hundred dollars (\$2,500.00). The bond shall remain on file in the city clerk's office for a period of one (1) year and shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the city. It shall guarantee to any citizen of the city that all money paid as a down payment and/or complete purchase will be accounted for and applied according to the representations of the permittee, and shall further guarantee to any citizen of the city doing business with said permittee that the goods purchased will be delivered and/or guaranteed according to the representations of the permittee. (1980 Code, § 5-206, as replaced by Ord. #467, Aug. 2009)

**9-207. Loud noises and speaking devices.** No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume (in accordance with title 11, § 11-202 of the municipal code) 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. (1980 Code, § 5-207, as replaced by Ord. #467, Aug. 2009)

**9-208. Use of streets/sidewalks.** No permittee shall have any exclusive right to any location of the public streets/sidewalks, nor shall any be permitted to operate a "road block" of any kind, 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 such streets/sidewalks. For the purpose of this chapter, the judgment of a police officer and/or codes officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1980 Code, § 5-208, as replaced by Ord. #467, Aug. 2009)

**9-209. Exhibition of permit.** Permittees are required to exhibit their permit at a visible site for the inspection of any police officer, codes enforcement officer and customer/person solicited. (1980 Code, § 5-209, as replaced by Ord. #467, Aug. 2009)

**9-210. Enforcement and penalties.** (1) It shall be the duty of all policemen and/or codes officers to see that the provisions of this chapter and/or any other city ordinance that pertains are enforced.

(2) Any person violating the provisions of this chapter and/or any other city ordinance shall be punished by a fine of no more than fifty dollars (\$50.00). (1980 Code, § 5-210, as replaced by Ord. #467, Aug. 2009)

**9-211. Revocation or suspension of permit.** (1) Permits issued under the provisions of this chapter may be revoked by the city council 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, peddler, or temporary sales vendor.

(b) Any violation of this chapter or any other city ordinance that pertains.

(c) Conviction of any crime (felony) or misdemeanor.

(d) Conducting the business of peddler, solicitor, or temporary sales 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.

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

(f) Enter in or upon any residential premises before 9:00 A.M. or after dusk.

(2) Notice of the hearing for revocation of a permit shall be given by the city clerk 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/her last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer or codes enforcement officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the city manager may suspend a permit pending the revocation hearing. (1980 Code, § 5-211, as replaced by Ord. #467, Aug. 2009)

**9-212. Reapplication.** No permittee whose permit has been revoked shall make further application until a period of at least one (1) year has elapsed since the last revocation. (1980 Code, § 5-212, as replaced by Ord. #467, Aug. 2009)

**9-213. Expiration and renewal of permit.** Permits issued under the provisions of this chapter shall expire in no more than one hundred eighty (180) days within a calendar year. Each application expires December 31<sup>st</sup> of the year it was submitted. (1980 Code, § 5-213, as replaced by Ord. #467, Aug. 2009)

## CHAPTER 3

### CHARITABLE SOLICITORS

#### SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.
- 9-305. Number of permits per month limited for solicitations taking place within street intersections.

**9-301. 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 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. (1980 Code, § 5-301)

**9-302. Prerequisites for a permit.** The recorder shall 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. (1980 Code, § 5-302)

**9-303. 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. (1980 Code, § 5-303)

**9-304. Exhibition of permit.** Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1980 Code, § 5-304)

**9-305. Number of permits per month limited for solicitations taking place within street intersections.** Permits for street intersection solicitations within the town's corporate limits shall be issued on a first to apply basis. Only one permit per month shall be issued for solicitations to take place within the intersections of town streets. Charitable or religious organizations desiring to solicit by standing within street intersections shall be issued a permit for the specific day of the month on which solicitation is to be conducted and for specific street intersections. Each organization shall be limited to one such permit annually. The following restrictions shall apply to solicitations within street intersections:

(4) Permitted organizations shall allow no more than four (4) solicitors to be within each intersection at any one time.

(5) One solicitor at each intersection must be 21 years of age or older.

(6) The permitted organization may solicit at a maximum of three (3) intersections within the corporate limits of the town on the permitted date.

(7) Any violation of this section will be subject to a fine of not less than \$50 per incident. (as added by Ord. #425, Feb. 2005)



## CHAPTER 4

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

#### SECTION

9-401. Hours of operation regulated.

9-402. Minors to be kept out; exception.

**9-401. Hours of operation regulated.** It shall be unlawful for any person to open, maintain, conduct, or operate any where pool tables or billiard tables are kept for public use or hire between the hours of 7:00 A.M. and 11:00 P.M. every day of the week except Sunday, on which day the lawful hours of operation shall be between 12:00 noon and 6:00 P.M. (1980 Code, § 5-401, as amended by Ord. #362, May 1997, and Ord. #388 July 2001)

**9-402. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, 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 written consent of the mother, guardian, or other person having legal control of such minor must be obtained. If the minor is in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school must be obtained; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1980 Code, § 5-402, as amended by Ord. #362, May 1997)

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<sup>1</sup>Municipal 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 Town of Monterey and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Monterey 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.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #237, in the office of the city recorder.

## CHAPTER 6

### TAXICABS

#### SECTION

- 9-601. "Taxicab" defined.
- 9-602. "Conduct a taxicab business" defined.
- 9-603. Application for taxi business.
- 9-604. Fee to be charged for each vehicle.
- 9-605. Fee to be charged for substitution/replacement of vehicles.
- 9-606. Liability insurance required.
- 9-607. Mechanical condition of vehicles.
- 9-608. Inspection of vehicles.
- 9-609. Designation of taxis.
- 9-610. License and permit required for drivers.
- 9-611. Qualifications for driver's permit.
- 9-612. Accidents.
- 9-613. Fee for driver's permit.
- 9-614. Display of driver's permit.
- 9-615. Revocation or suspension of driver's permit.
- 9-616. Rules of driver conduct.

**9-601. "Taxicab" defined.** "Taxi" means a motor vehicle regularly engaged in the business of transporting passengers for hire, donations, gratuity or any other form of remuneration, having a seating capacity with no more than seven (7) seats for passengers and not operated on a fixed route. (as added by Ord. #421, May 2004)

**9-602. "Conduct a taxicab business" defined.** The term "conduct a taxicab business" as used in this chapter shall be held to mean the use of one (1) or more taxis within the corporate limits of the Town of Monterey, by the owner thereof, for the purpose of carrying passengers for hire, either by driving the same himself or having same driven by some other person. (as added by Ord. #421, May 2004)

**9-603. "Application for taxi business."** (1) Before any person, firm or corporation shall conduct a taxi business in the Town of Monterey, he shall file with the Monterey City Recorder an application for a permit to conduct such business in the town. The application shall include the name and address of the applicant; whether the applicant is an individual, firm, or corporation, and if a firm the name and address of each member thereof. The application shall also include the following: the make, model, vehicle identification number (VIN), and license number of all vehicles proposed to be used in the business; the color

scheme or insignia to be used to designate the vehicle or vehicles; experience of the applicant in the transportation of passengers; certification of the mechanical reliability and cleanliness of the vehicles; certification of liability insurance; and such other pertinent information as may be required on said form, which application shall be sworn to by the applicant and verified by the affidavits of two (2) reputable citizens of the Town of Monterey who are not related to the applicant but have been acquainted with the applicant at least two (2) years.

(2) All permits for conducting of a taxi business shall be issued and signed by the Monterey City Recorder. No taxi permits shall be issued for a longer period than one (1) calendar year. The Monterey City Recorder may issue a permit for a shorter or probationary period if, in his discretion, it deems proper and such permit is subject to cancellation at any time by the Monterey City Recorder.

(3) All permits heretofore issued shall expire on the 31<sup>st</sup> day of December; and, in order to obtain a renewal taxi permit the 31<sup>st</sup> day of December, the applicant must file a renewal application before December 1<sup>st</sup> each year. It shall be the responsibility of the applicant to insure that all fees have been paid and all vehicles have been inspected prior to December 31<sup>st</sup> of each year so that the application for renewal can be acted upon by the city recorder. Failure to comply with the provisions of this section shall result in immediate suspensions of all permits held by the taxi owner.

(4) No permits for a taxi business shall be issued unless a current business license has been obtained from the municipality. The taxi business must be conducted, within the city limits of the municipality and must be located in an area zoned for a taxi business. Permits issued under this section are nontransferable.

(5) Every taxi permitted under this chapter shall post the taxi permit in such a place in each taxi as to be in full view of all passengers while such taxi is in operation.

(6) The Town of Monterey City Recorder shall have the authority to issue administrative regulations that are not in conflict with this chapter governing the use and operation of taxis. (as added by Ord. #421, May 2004)

**9-604. Fee to be charged for each vehicle.** At the time of issuance of a permit to operate a taxi business, the holder of the permit shall pay to the city recorder a nonrefundable fee in the amount of fifty dollars (\$50) for each vehicle to be operated as a taxi. If any time the holder of a taxi permit shall desire to use any additional vehicles under the permit, he may do so only after he has made application to the city recorder for permit to use such additional vehicles, and he shall furnish to the Monterey Police Department the same information regarding such additional vehicles as required in 9-403 regarding those vehicles covered by the original permit. The holder of the permit shall pay to the

Monterey City Recorder a nonrefundable, prorated fee in the amount of fifty dollars (\$50) for each additional vehicle. (as added by Ord. #421, May 2004)

**9-605. Fee to be charged for substitution/replacement of vehicles.**

If at any time the holder of a taxi permit shall desire to substitute or replace vehicles under the permit he may do so only after he had made application to the Monterey City Recorder for a permit to use such vehicle, and he shall furnish to the Monterey Police Department the same information regarding such vehicle as required in 9-403 regarding those vehicles covered by the original permit. The holder of the permit shall pay to the Monterey City Recorder a nonrefundable fee in the amount of twenty five dollars (\$25) for the substitution or replacement of each vehicle. The fee for substitution or replacement will not be prorated. (as added by Ord. #421, May 2004)

**9-606. Liability insurance required.** No taxi permit shall be issued or renewed unless there is in full force and effect a liability insurance policy for all vehicles. This insurance policy must be approved and filed with the Monterey City Recorder before any taxi permits are issued. The insurance policy for each vehicle shall be in the amount of not less than \$50,000 for bodily injury or death per person, \$100,000 for bodily injury or death per accident and contain a provision that it shall not be canceled unless after at least twenty (20) days written notice is given by the insurer to both the insured and Monterey City Recorder. (as added by Ord. #421, May 2004)

**9-607. Mechanical condition of vehicles.** It shall be unlawful for any person to operate or permit a taxi owned or controlled by him to be operated as a vehicle for hire upon the streets of Monterey unless such taxi is equipped with proper brakes, front and rear lights, safe tires, horn, muffler, rear vision mirror, and windshield wipers, all of which shall conform to the requirements of the state motor vehicle law. Each taxi 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 opened by the passenger from the inside of the taxi without the intervention or assistance of the driver. The taxi shall be equipped with seat belts for each passenger and a State of Tennessee approved child restraint device for each child under four (4) years of age. The motor and all the 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 taxi. (as added by Ord. #421, May 2004)

**9-608. Inspection of vehicles.** (1) All taxis shall be inspected at least annually to ensure that they comply with the requirements of this chapter. The chief of police will designate the date, time and by whom the inspections shall be made.

(2) A police officer is authorized by this chapter to stop a taxi operating on the streets of the Town of Monterey when the mechanical appearance of the vehicle so warrants or to inspect said vehicle for compliance with this chapter. If said officer finds the vehicle to be in noncompliance with this chapter, he shall cite the owner and declare the taxi inoperable and not to operate on the streets of the municipality until all defects have been corrected and evidence of inspection as provided in 9-403 is provided to the chief of police. (as added by Ord. #421, May 2004)

**9-609. Designation of taxis.** Each taxi shall bear on the outside of each front door an identifying company name and the word "taxi" if not part of the company name. The marking shall be of sufficient size to be clearly visible from a distance of twenty (20) feet. Each taxi shall be designated by the permit number assigned by the Monterey City Recorder and such number shall also appear on each side of the taxi. Each taxi shall be equipped with a light on its top that identifies the vehicle as a taxi. (as added by Ord. #421, May 2004)

**9-610. License and permit required for drivers.** (1) No person shall drive a taxi unless he is in possession of a State of Tennessee Commercial Driver's License or a class "D" operator's license with an "F" endorsement and a taxi driver's permit issued by the Monterey City Recorder.

(2) No driver's permit shall be issued for a longer period than one (1) calendar year. Said driver's permit will be renewable with the taxi business date as provided in 9-403. (as added by Ord. #421, May 2004)

**9-611. Qualifications for driver's permits.** No person shall be issued a taxi driver's permit unless he complies with the following qualifications:

(1) Makes written application to the Monterey City Recorder forms provided for that purpose. That application shall contain such pertinent information as deemed necessary by the Monterey City Recorder.

(2) Is at least twenty-one (21) years of age and holds a license as required in 9-410.

(3) If of good character and has not been convicted of, pled guilty to, or entered a plea of "no contest" to any felony, drunk driving, driving under the influence of an intoxicant or drug, any drug related charge, or more than three (3) moving traffic violations within the five (5) years immediately preceding the date of application for the driver's permit.

(4) Has not been involved in more than two (2) traffic accidents during a period of five (5) years immediately preceding the date of the application for the driver's permit. (as added by Ord. #421, May 2004)

**9-612. Accidents.** All traffic accidents arising from or in connection with the operation of taxis shall be reported to the Monterey Police Department within 24 hours of the accident. (as added by Ord. #421, May 2004)

**9-613. Fee for driver's permit.** A nonrefundable fee of twenty-five dollars (\$25) shall be charged for each original or replacement driver's permit that is issued. All permits are required to be in possession of the driver while operating a taxi in the Town of Monterey. The fee for a driver's permit will not be prorated. (as added by Ord. #421, May 2004)

**9-614. Display of driver's permit.** Every driver permitted under this chapter shall post his driver's permit in such a place in his taxi as to be in full view of all passengers while such driver is operating the taxi. (as added by Ord. #421, May 2004)

**9-615. Revocation or suspension of driver's permit.** Driver's permits are non-transferable and the Monterey City Recorder may revoke or suspend any taxi 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 9-411. (as added by Ord. #421, May 2004)

**9-616. Rules of driver conduct.** (1) Taxi drivers shall deliver their passengers to their destinations by the most direct available route.

(2) No person shall be admitted to a taxi already occupied by a passenger without the consent of such other passenger.

(3) Drivers or taxis shall not receive or discharge passengers in the roadway but shall pull up to the right hand sidewalk as nearly as possible, or in the absence of a sidewalk, to the extreme right hand side of the street and there receive or discharge passengers, except upon a one-way street, where passengers may be received or discharged at either the right or left sidewalk, or side of the street in the absence of a sidewalk.

(4) It shall be unlawful for any taxi driver, while on duty, to be under the influence of, or to consume any intoxicating beverage or drug; 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.

(5) No driver shall engage in selling or delivering any intoxicating liquors, alcoholic beverages, illegal drugs or any illegal act, business or purpose.

(6) It shall be unlawful to park any taxi on any street except in such places as have been specifically designated and marked by the municipality for the use of taxis. It is provided, however, that taxis 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 unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished.

(7) Any vehicle designated as taxi and marked to identify it as a taxi, shall not be operated by anyone without a valid taxi driver's permit for any purpose other than a taxi. (as added by Ord. #421, May 2004)



## CHAPTER 7

### YARD SALES, ETC., REGULATED

#### SECTION

- 9-701. Definitions.
- 9-702. Property permitted to be sold.
- 9-703. Permit required.
- 9-704. Permit procedure.
- 9-705. Permit conditions.
- 9-706. Hours of operation.
- 9-707. Exceptions.
- 9-708. Display of sale property.
- 9-709. Display of permit.
- 9-710. Advertising.
- 9-711. Persons exempted from chapter.
- 9-712. Violations and penalty.

**9-701. Definitions.** For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

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

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment. (as added by Ord. #447, Sept. 2007)

**9-702. Property permitted to be sold.** It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (as added by Ord. #447, Sept. 2007)

**9-703. Permit required.** No garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore

from the Town of Monterey Codes Department. Members of more than one (1) residence may join in obtaining a permit for a garage sale to be conducted at the residence of one (1) of them, however, such permit shall be considered as having been issued for each and all such residences. Permits may be obtained for any nonresidential location. (as added by Ord. #447, Sept. 2007)

**9-704. Permit procedure.** (1) Application. The applicant or applicants for a garage sale permit shall file a written application with the codes department setting forth the following information:

- (a) Full name and address of applicant or applicants;
- (b) The location at which the proposed garage sale is to be held;
- (c) The date or dates upon which the sale shall be held;
- (d) The date or dates of any garage sales by the same applicant or applicants within the current calendar year;
- (e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale;
- (f) A statement that the applicant will fully comply with all town sign regulations and understands that no sign shall be posted on any utility pole, street sign, or other public property;
- (g) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Permit fee. An administrative processing fee of two dollars (\$2.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the codes department shall issue a permit. (as added by Ord. #447, Sept. 2007)

**9-705. Permit conditions.** (1) The permit shall set forth and restrict the time and location of such garage sales.

(2) No more than three (3) such permits may be issued to one (1) residential location, residence and/or family household during any calendar year (January 1 through December 31).

(3) There shall be a minimum of thirty (30) days between sales at anyone residence, premise or location. If members of more than one (1) residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences.

(4) No more than three (3) permits may be issued for any nonresidential location during any calendar year.

(5) Failure to comply with the provisions for advertising in § 9-710 shall render a residence, premise or location ineligible for additional sales during the same calendar year. (as added by Ord. #447, Sept. 2007)

**9-706. Hours of operation.** Garage sales shall be limited in time to no more than 6:00 A.M. to 6:00 P.M. on three (3) consecutive days. (as added by Ord. #447, Sept. 2007)

**9-707. Exceptions.** (1) Inclement weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first date of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the codes department shall issue another permit to the applicant for a garage sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the codes department. (as added by Ord. #447, Sept. 2007)

**9-708. Display of sale property.** Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (as added by Ord. #447, Sept. 2007)

**9-709. Display of permit.** Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official. (as added by Ord. #447, Sept. 2007)

**9-710. Advertising.** The provisions of the general sign regulations of the Town of Monterey Zoning Code shall be met and include the following:

- (1) No sign shall exceed six feet (6') sign face area.
- (2) No sign shall be placed more than five (5) days prior to sale.
- (3) All signs must be removed within three (3) days after the sale is completed.
- (4) No sign shall be placed on any utility pole, street sign, or any other public property. (as added by Ord. #447, Sept. 2007)

**9-711. Persons exempted from chapter.** The provisions of this chapter shall not apply to or affect the following:

- (1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular day-to-day basis from or at the place of business wherein such sale would be permitted by the Town of Monterey Zoning Code, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacture, dealer or vendor in which sale would be conducted from property zoned premises, and not otherwise prohibited by other ordinances.

(4) Any sale conducted in a non-residential zoning district by any bona fide nonprofit, charitable, eleemosynary, educational, cultural or governmental institution or organization; provided, however, that the burden of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption. (as added by Ord. #447, Sept. 2007)

**9-712. Violations and penalty.** Any person found guilty of violating the terms of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00) for each offense. (as added by Ord. #447, Sept. 2007)

## CHAPTER 8

### ADULT-ORIENTED ESTABLISHMENTS

#### SECTION

- 9-801. Purpose.
- 9-802. Definitions.
- 9-803. License required.
- 9-804. Application for license.
- 9-805. Standards for issuance of license.
- 9-806. Permit required.
- 9-807. Application for permit.
- 9-808. Standards for issuance of permit.
- 9-809. Fees.
- 9-810. Display of license or permit.
- 9-811. Renewal of license or permit.
- 9-812. Revocation of license or permit.
- 9-813. Hours of operation; signage.
- 9-814. Responsibilities of the operator.
- 9-815. Prohibitions and unlawful sexual acts.
- 9-816. Penalties and prosecution.
- 9-817. Severability.
- 9-818. Approval process and appeals.
- 9-819. Judicial review of town actions.

**9-801. 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 secondary effects of sexually oriented businesses within the city. 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. (as added by Ord. #454, July 2008)

**9-802. Definitions.** For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

- (1) "Adult bookstore" means an establishment having as a substantial portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software,

computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

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

(3) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of 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 any means by patrons therein.

(5) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials 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 any means by patrons therein.

(6) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms,

compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(7) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the Town of Monterey, Tennessee.

(8) "Employee" means any, and all persons including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(9) "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 or an independent contractor.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernably turgid state, even if completely opaquely covered.

(12) "Specified sexual activities" means:

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

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (as added by Ord. #454, July 2008)

**9-803. License required.** (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Town of Monterey without first obtaining a license to operate issued by the Town of Monterey.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or

corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

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

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

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

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.

(a) Name and addresses, including all aliases;

(b) Written proof that the individual(s) is at least eighteen (18) years of age;

(c) All residential addresses of the applicant(s) for the past three (3) years;

(d) The applicants' height, weight, color of eyes and hair;

(e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application;

(f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;

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

(h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of each applicant;

(i) The address of the adult-oriented establishment to be operated by the applicant(s);

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant;

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



(l) The length of time each applicant has been a resident of the Town of Monterey, or its environs, immediately preceding the date of the application;

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity;

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

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

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Monterey Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the board of mayor and aldermen.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of mayor and aldermen and no agreement is reached with the applicant concerning the basis for denial, the town attorney shall institute suit for declaratory judgment in the Chancery Court of Putnam County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief. (as added by Ord. #454, July 2008)

**9-805. Standards for issuance of license.** (1) To receive a license to operate an adult oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-603 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-603 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

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

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

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have

been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Monterey Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application. (as added by Ord. #454, July 2008)

**9-606. Permit required.** (1) In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief. (as added by Ord. #454, July 2008)

**9-807. Application for permit.** (1) Any person desiring to secure a permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

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

- (a) Name and address, including all aliases;
- (b) Written proof that the individual is at least eighteen (18) years of age;
- (c) All residential addresses of the applicant for the past three (3) years;
- (d) The applicant's height, weight, color of eyes, and hair;
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application;
- (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation;
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations;
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant;
- (i) The length of time the applicant has been a resident of the Town of Monterey, or its environs, immediately preceding the date of the application;

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

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

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief. (as added by Ord. #454, July 2008)

**9-808. Standards for issuance of permit.** (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application;

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Monterey Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application. (as added by Ord. #454, July 2008)

**9-809. Fees.** (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (as added by Ord. #454, July 2008)

**9-810. Display of license or permit.** (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Monterey Police Department, or any person designated by the board of mayor and aldermen. (as added by Ord. #454, July 2008)

**9-811. Renewal of license or permit.** (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the Monterey Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the Monterey Police Department is aware of any information bearing on the employees qualifications, that information shall be filed in writing with the police chief. (as added by Ord. #454, July 2008)

**9-812. Revocation of license or permit.** (1) The police chief shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

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

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

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

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

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a nonindividual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #454, July 2008)

**9-813. Hours of operation; signage.** (1) Adult-oriented establishments shall be open only between the hours of 11:00 A.M. and 11:00 P.M. Monday through Saturday. No adult establishment shall be open for business on any Sunday or a legal holiday as designated in Tennessee Code Annotated, § 15-1-101.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Monterey Police Department, the Putnam County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate.

(3) **Sign design.** Due to the sensitive nature of these businesses and because signs are visible to the general public, including children, the sign for such businesses shall not exceed two (2) square feet and must be designed so as not to include descriptive wording, artwork or photography connected to said business or depicting said business activity. (as added by Ord. #454, July 2008)

**9-814. Responsibilities of the operator.** (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above

information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Monterey Police Department at all reasonable times.

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

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

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

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

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

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

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



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

This adult-oriented establishment is regulated by the Town of Monterey Municipal Code.

Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (as added by Ord. #454, July 2008)

**9-815. Prohibitions and unlawful sexual acts.** (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (as added by Ord. #454, July 2008)

**9-816. Penalties and prosecution.** (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #454, July 2008)

**9-617. Severability.** If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this chapter is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications. (as added by Ord. #454, July 2008)

**9-818. Approval process and appeals.** (1) Adult oriented business may be located in the I-1 Light Industrial District, by Special Exception only, pending review and approval of board of zoning appeals.

ADDITIONAL CONDITIONS: Adult oriented business cannot be located within five hundred feet (500') (property line to property line) of any of the following:

- (a) School, educational or school related facility;
- (b) Church, religious, church-related or church operated facility;
- (c) Public or other recreational facility;
- (d) Hospital, nursing home, elderly care facility or residential care home for aged;
- (e) Licensed day care facility or day care drop-off facility;
- (f) Boundary of a residential zone; and
- (g) Another adult-oriented business establishment.

(2) Adult oriented businesses may be permitted in the I-1 Light Industrial District as a Special Exception (Conditional Use) following a site plan being submitted and approved by the board of zoning appeals and including verification of location restriction, with appropriate conditions and safeguards. (as added by Ord. #454, July 2008)

**9-819. Judicial review of town actions.** All decisions of the town on the revocation, refusal to issue, or nonrenewal of permits shall be reviewable in the Chancery Court of Putnam County, but only as to the existence of whether or not there was substantial evidence upon which the town could base its decision. The permittee shall be prohibited from operating such business after a decision by the town to refuse to issue, revoke, or to not renew a permit until the town's decision is overturned by a court of competent jurisdiction. (as added by Ord. #454, July 2008)