

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

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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. (1981 code, § 5-102)

CHAPTER 2

PEDDLERS, ETC.

SECTION

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9-201. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this chapter:

(1) "Goods," "wares" or "merchandise" shall mean all variety of merchandise items, whether handmade or manufactured, or services, whether personal or professional, but not necessarily limited to souvenirs, gifts, prizes, art, school supplies, cloth, clothing or wearing apparel, toys, balloons, novelties, small appliances, works of art or crafts, directional information and/or charts, street photographers, tools or mechanical devices of any nature, and farm produce.

(2) "Peddler" shall mean any person who goes from dwelling to dwelling, business to business, place to place, or from street to street carrying or transporting goods, wares or merchandise and offering or exposing the same for sale, and makes sales and delivery of merchandise or services concurrently and on-the-spot to a residential or commercial customer.

(3) "Solicitor" shall mean any person who goes from dwelling to dwelling, business to business, place to place, or from street to street taking or

attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatsoever for future delivery.

(4) "Transient vendor" shall mean any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, parking lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks or merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (Ord. # 092-17, Aug. 1992, as amended by Ord. #094-27, Feb. 1995, and replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-202. Permit required. It shall be unlawful for any peddler, solicitor or transient vendor to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter.

(1) An application for a "peddlers and solicitors permit" shall be submitted to the city clerk.

(2) An application for a "transient vendors permit" shall be submitted to the community development department along with written permission from the property owner of the location at which sales will be conducted.

(3) No permit shall be used at any time, or place, by any person other than the one to whom it is issued and, if applicable, the location issued for.

(4) An application must be filed at least five (5) working days prior to the event or sales activity.

(5) Each applicant shall submit to the city clerk or community development department a copy of their State of Tennessee "certificate of registration" per state law, except for isolated or incidental sales. (Ord. #092-17, Aug. 1992, as replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-203. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers; nor to newsboys; nor to bona fide merchants who merely deliver goods in the regular course of business; nor to bona fide charitable, religious, patriotic, or philanthropic organizations; nor to a person receiving authorization to ply his trade at a county fair or special event, fair, festival or bazaar solely sponsored and conducted by a bona fide charitable, religious, patriotic, or philanthropic organization. (Ord. # 092-17, Aug. 1992, as

amended by Ord. # 094-27, Feb. 1995, and replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-204. Application for permit. Applicants for a peddlers and solicitors permit shall file with the city clerk, and applicants for a transient vendor permit shall file with the community development department, a sworn written application containing the following for each peddler, solicitor or transient vendor:

- (1) Name and physical description of the applicant;
- (2) Complete permanent home address and local address of the applicant and, in the case of transient vendors, 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 or the nature of the solicitation;
- (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, not to exceed fourteen (14) days;
- (6) Two (2) means of identification, one (1) of which must be government issued identification that includes a clear photograph of the applicant;
- (7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to evaluate properly the applicant's moral reputation and business responsibility;
- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefore;
- (9) The last three (3) cities or towns, if that many, where the applicant carried on business immediately preceding the date of application and, in the case of transient vendors, the addresses from which such business was conducted in those municipalities;
- (10) An approval to use the property for the period specified, signed by the property owner.
- (11) A non-refundable fee of twenty-five dollars (\$25.00) shall be paid to the city at the time the application is filed; and
- (12) The applicant shall also submit as a part of the application, and at his/her cost, a criminal history record issued by the Tennessee Bureau of Investigation within the last thirty (30) days. (1981 code, § 5-204, as amended by Ord. # 094-27, Feb. 1995, and replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-205. Issuance or refusal of permit. (1) Within three (3) business days of receipt of a complete application and all applicable fees and taxes, the information presented on the application shall be investigated by the city.

(2) If as a result of such investigation the applicant's moral reputation and/or business responsibility is found to be unsatisfactory, the city clerk or community development department shall notify the applicant that his application is disapproved and that no permit will be issued. If, on the other hand, the moral reputation and business responsibility of the applicant are satisfactory, a revocable permit shall be issued by the city clerk or community development department upon the payment of all applicable fees and taxes and the filing of the bond required. A permanent record shall be kept of all permits issued. (1981 code, § 5-205, as replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-206. Appeal. Any person aggrieved by the action of the city clerk or community development department in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor or city manager, 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 applicant. 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 the 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. (1981 code, § 5-207, as replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-207. Bond. Every applicant for a permit shall file with the city clerk or community development department a surety bond running to the city in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permit holder shall comply fully with the provisions of the ordinances of the city and the statutes of the state and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permit holder, and further guaranteeing to any citizen of the city doing business with said permit holder that the property purchased will be delivered according to the representations of the permit holder. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1981 code, § 5-208, as replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-208. Loud noises and speaking devices. No permit holder, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any

sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced 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 permit holder proposes to sell. (1981 code, § 5-209, as replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-209. Limitations on use of streets and sidewalks. No permit holder shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer or code enforcement officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1981 code, § 5-210, as replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-210. Prohibitions. The following activities shall be declared unlawful:

(1) Soliciting by a parked vehicle or movable receptacle on public streets, highways, sidewalks, rights-of-way, and public places.

(2) The erection of stands or similar contrivances on public streets, highways, sidewalks, rights-of-way, and public places for the purpose of giving away, displaying and/or buying or selling of goods, wares or merchandise.

(3) Sale of drinks or other prepared foods and/or edible items upon public streets, sidewalks, highways and rights-of-way, except as may be regulated elsewhere in this code. (1981 code, § 5-211, as replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-211. Exhibition of permit. Permit holders are required to exhibit their permits for inspection at all times and upon the request of any police officer, code enforcement officer, city official or citizen. Failure to exhibit a permit shall constitute a violation of this section. (1981 code, § 5-212, as replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-212. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the governing body, 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 peddler, solicitor or transient vendor;

(b) Any violation of this chapter;

(c) Conviction of any crime or misdemeanor;

(d) Conducting the business of peddler, solicitor or transient 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 the 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 permit holder at his last known address at least five (5) days prior to the date set for hearing or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for the hearing.

(3) The city manager may suspend a permit pending the revocation hearing when reasonably necessary in the public interest. (1981 code, § 5-213, as replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-213. Reapplication. No permit holder whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (Ord. # 092-17, Aug. 1992, as amended by Ord. # 094-27, Feb. 1995, and replaced by Ord. #08-32, Feb. 2009, and Ord. #17-13, Oct. 2017)

9-214. Number of permits. Each peddler, solicitor or transient vendor making application for a permit is only eligible to receive one (1) permit during a calendar year, and is valid for a fourteen (14) day consecutive day period. Transient vendor permits shall not be required for the Springfield-Robertson County Farmers Market, or for events hosted or sponsored by the City of Springfield or Robertson County Chamber of Commerce. A permit may not be extended. (1981 code, § 5-305, as replaced by Ord. #08-32, Feb. 2009, Ord. #12-13, Dec. 2012, and Ord. #17-13, Oct. 2017)

9-215. Permits for local farmers. Robertson County farmers selling agricultural products, grown and produced on their own land, shall be required to have a "transient vendors" permit, but the permit shall be valid from April through October. The same twenty-five dollar (\$25.00) transient vendor permit fee applies, as well as the written consent from the property owner. Such farmers shall also have an exemption from the bond and criminal history record requirements of this chapter. Agricultural products include fruits, vegetables, farm-fresh eggs, butter, herbs, honey, jams, jellies, sauces, nuts, bread, meat, poultry, fish, cheese, cider, syrup, flowers, potted plants, and similar items. (as added by Ord. #08-32, Feb. 2009 and replaced by Ord. #10-05, April, 2010, Ord. #12-13, Dec. 2012, and Ord. #17-13, Oct. 2017)

9-216. Requirements for certain products. Baked goods, farm fresh eggs, jams, jellies, sauces, cider, breads, meat, poultry and fish offered for sale by transient vendors shall have been prepared in legal, licensed, approved and inspected facilities by the Tennessee Department of Agriculture or the United States Department of Agriculture (USDA). Proof of inspection shall be required and must be prominently posted at the location of sale.(as added by Ord. #08-32,

Feb. 2009, and replaced by Ord. #10-05, April 2010, Ord. #12-13, Dec. 2012, and Ord. #17-13, Oct. 2017)

9-217. Conduct of solicitors. It shall be unlawful for any person receiving a permit under this chapter to use any force, threat, harassment, coercion, or misrepresentation of the truth to solicit contributions or anything else of value. It shall also be unlawful for any permit holder to block, impede, hinder, interfere with, or slow the progress of the orderly flow of vehicular or pedestrian traffic. (as added by Ord. #08-32, Feb. 2009, and replaced by Ord. #10-05, April 2010, Ord. #12-13, Dec. 2012, and Ord. #17-13, Oct. 2017)

9-218. Hours in which business may be conducted. No permit holder shall conduct business before the hour of 8:00 A.M. or after the hour of 8:00 P.M. (as added by Ord. #08-32, Feb. 2009, and replaced by Ord. #10-05, April 2010, Ord. #12-13, Dec. 2012, and Ord. #17-13, Oct. 2017)

9-219. Trespassing. It shall be unlawful and deemed to be a trespass for any peddler, solicitor or transient vendor to fail to promptly leave the private premises of any person who requests him to leave. (as added by Ord. #08-32, Feb. 2009, and replaced by Ord. #10-05, April 2010, Ord. #12-13, Dec. 2012, and Ord. #17-13, Oct. 2017)

9-220. Violation and penalty. Any person violating any of the provisions of this chapter, or filing, or causing to be filed, an application for a permit or certificate under this chapter containing false or fraudulent statements shall be subject to the penalty provisions of this code. (as added by Ord. #10-05, April 2010, and replaced by Ord. #12-13, Dec. 2012, and Ord. #17-13, Oct. 2017)

9-221. Deleted. (as added by Ord. #12-13, Dec. 2012, and deleted by Ord. #17-13, Oct. 2017)

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. Conduct of solicitors.

9-301. Permit required. It shall be unlawful for any person to solicit contributions or anything else of value for any real or alleged charitable, religious, or other non-profit organization without a permit from the city clerk authorizing such solicitations. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable, religious, or other non-profit purposes if the solicitations are conducted exclusively by the local 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 locally established organization or church. For the purposes of this chapter, a locally established organization or church shall be defined as one which conducts regular meetings in Springfield, Tennessee, the majority of whose members reside in Springfield, Tennessee, and whose organizational charter define it as being a religious, charitable, or other non-profit organization under the most current laws of the State of Tennessee. (1981 code, § 5-301)

9-302. Prerequisites for a permit. Applicants for a permit under this chapter must file with the city clerk a written application on a form provided by the city clerk. A separate application is required for each person seeking to solicit for an organization covered by this chapter. The city clerk shall issue a permit authorizing solicitations by charitable, religious, or other non-profit organizations when, after an investigation by the Springfield Police Department, he finds the following facts to exist:

- (1) The applicant has not been convicted of any felony within the last ten years and has never been convicted of any offense involving any fraudulent transaction or enterprise.
- (2) The organization for which the applicant seeks to solicit has never engaged in any fraudulent transaction or enterprise.
- (3) The control and supervision of the solicitation will be under responsible and reliable persons.
- (4) The solicitation will not be a fraud on the public, but will be for a bona fide purpose as covered by this chapter.
- (5) The solicitation is prompted solely by a desire to finance the cause described in the application. (1981 code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1981 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. (1981 code, § 5-304)

9-305. Conduct of solicitors. It shall be unlawful for any person receiving a permit authorizing solicitations under this chapter to use any force, threat, harassment, coercion, or misrepresentation of the truth to solicit contributions or anything else of value. It shall also be unlawful for any solicitor to block, impede, hinder, interfere with, or slow the progress of the orderly flow of vehicular or pedestrian traffic. No solicitation covered by this chapter shall be conducted before the hour of 8:00 a.m. or after the hour of 8:00 p.m. except by the request of a resident. (1981 code, § 5-305, modified)

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Definitions.
- 9-402. Franchise and privilege license required.
- 9-403. Qualifications for franchise.
- 9-404. Application for franchise.
- 9-405. Revocation or suspension of franchise.
- 9-406. Annual renewal.
- 9-407. Semi-annual reporting of taxicabs in operation.
- 9-408. Taxicabs to be licensed and identified.
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- 9-410. Liability insurance required.
- 9-411. Mechanical condition of vehicle.
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- 9-413. Transfer of franchise.
- 9-414. Suspension and revocation of franchise.
- 9-415. Taxicab driver's permit required.
- 9-416. Qualifications and application for driver's permit.
- 9-417. Police investigation of applicant.
- 9-418. Consideration of application and issuance of permit.
- 9-419. Fees.
- 9-420. Display of permit.
- 9-421. Suspension and revocation of permits.
- 9-422. Rules of driver conduct.
- 9-423. Taxicab service to be comprehensive.
- 9-424. Accidents.
- 9-425. Police department duty to enforce chapter.
- 9-426. Fares and rates.
- 9-427. Violations.

9-401. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

(1) "Franchise" shall mean a certificate issued by the Board of Mayor and Aldermen of Springfield, authorizing the holder thereof to conduct a taxicab business in Springfield, Tennessee. Franchise is non-exclusive.

(2) "Holder" means a person to whom a taxicab franchise has been issued.

¹For privilege tax provisions, etc., see title 5 in this code.

(3) "Person," when used within this chapter, means any individual, firm, co-partnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or person representative thereof.

(4) "Taxicab" shall mean any motor vehicle engaged in the business of carrying passengers for hire primarily within the corporate limits and the suburban territory adjacent thereto, except buses and other common carriers operating over designated routes in and through the city.

(5) "Rate card" shall mean a card issued by the city clerk for display in each taxicab which contains the rates of fare then in force.

(6) "Conduct a taxicab business" shall be held to mean the use of one (1) or more taxicabs within the corporate limits of the City of Springfield, 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.

(7) "Driver permit" means the permission granted by the city clerk and chief of police to a person to drive a taxicab upon the streets of the City of Springfield. (1981 code, § 5-401, as amended by Ord. #091-09, Nov. 1991 and replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-402. Franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless first having obtained a taxicab franchise from the city and having a currently effective minimum business license as required by Tennessee Code Annotated, § 67-4-704. All persons desiring to operate taxicab businesses within the City of Springfield are hereby required to make application to the board of mayor and aldermen for a franchise. This section shall not be so construed as to require any person lawfully engaged in the taxicab business solely within another municipality to obtain from the board of mayor and aldermen a franchise authorizing the transportation of passengers to Springfield, Tennessee. (1981 code, § 5-402, as amended by Ord. #091-09, Nov. 1991 and replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-403. Qualifications for franchise. No person shall be granted a franchise to operate a taxi service unless he meets the following qualifications to the satisfaction of the city clerk and chief of police:

(1) No person shall be eligible for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years; nor shall such franchise be issued to or held by any corporation if any officer thereof would be ineligible for a franchise under the foregoing conditions.

(2) Is at least twenty-one (21) years of age and is properly licensed by the State of Tennessee.

(3) Is clean in dress and person.

(4) At the time of application must produce affidavits of good character from two (2) reputable citizens of this city who have known him personally and

have observed his conduct for at least five (5) years next preceding the date of his application for a franchise.

(5) Has not been convicted, pled guilty, placed on diversion, probation or parole; or pleaded nolo contendere to any felony within the last ten (10) years. If at the time of the application, the applicant is charged with any such offenses the application shall be deferred until entry of a plea, conviction, acquittal, dismissal, or other final disposition of the charges.

(6) Has not been convicted, plead guilty, or pled nolo contendere to drunk driving, driving under the influence of any intoxicant or drug, hit and run, reckless or careless driving in the last five (5) years, or been involved in three (3) or more moving traffic violations during a period of three (3) years immediately preceding the date of application. If at the time of the application the applicant is charged with any such offenses the application shall be deferred until entry of a plea, conviction, acquittal, dismissal, or other final disposition of the charges.

(7) Provides a certified copy of his driving record that is less than thirty (30) days old.

(8) Provides a criminal history record from the FBI. (1981 code, § 5-403, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-404. Application for franchise. No person shall be granted a franchise to operate a taxi service unless he meets the application requirements as stated herein to the satisfaction of the city clerk and chief of police. The application for a franchise shall be filed with the city clerk upon forms provided by the City of Springfield. The application shall be verified under oath and shall be filed under the conditions required as follows:

(1) The application for a franchise shall state whether or not the business is to be operated by an individual, partnership, or corporation. If by an individual, the name of such individual, or by partnership, and if by corporation, the place, book, and page number where such charter is of record shall be stated on the application.

(2) The application shall state the number of cabs to be operated, the make and year models of said cabs, and such other pertinent information as the chief of police may require, the location of the proposed place of business, and the proposed rates to be charged.

(3) As soon as all information required in the application is forwarded along with the application, the chief of police shall make a thorough investigation of the applicant, present the application to the board of mayor and aldermen and make a recommendation to either grant or refuse a franchise to the applicant.

(4) Subject to the provisions of § 9-402, a franchise authorizing the operation of taxicabs within the City of Springfield, shall be issued to any qualified applicant found to be fit, willing, and able to properly perform the service proposed and to conform to the provisions of this chapter, provided the

proposed service authorized by such franchise is or will be required by the present or future public convenience and necessity. No franchise issued under this chapter shall confer any proprietary or property rights in the use of the streets and highways within the city.

(5) Any franchise issued under the provisions of this chapter shall specify the date issued and the service to be performed.

(6) The application for a franchise shall also include the following information:

(a) The name and address of the person making application for the franchise.

(b) The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments.

(c) The experience of the applicant in the transportation of passengers.

(d) The location of any proposed depots and terminals.

(e) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.

(f) Procedures for training drivers.

(g) Rules and regulations governing driver appearance and conduct.

(h) Such additional information as the board of mayor and aldermen may require. (1981 code, § 5-404, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-405. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefore or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1981 code, § 5-405, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-406. Annual renewal. Each taxicab franchise shall be issued for one (1) year and shall expire on the anniversary date of the certificate. A certificate may be renewed for each successive year by the person or corporation making the original application by meeting all the requirements of the original franchise application. This includes submitting an updated certified driving record along with an updated criminal history. Failure to renew by the anniversary date shall result in forfeiture of the franchise. An updated FBI criminal history shall be submitted every five (5) years after the date of the issuance of the initial franchise certificate as a part of the annual renewal. A TBI criminal history less than thirty (30) days old shall be submitted with the annual renewal in every year that an FBI criminal history is not required. (1981 code, § 5-406, as replaced by Ord. #96-27, § 1, June 1996, Ord. #08-05, July 2008, and Ord. # 11-04, June 2011)

9-407. Semi-annual reporting of taxicabs in operation. Persons granted a taxicab franchise shall provide a semi-annual report to the city clerk identifying the taxicabs being insured and operated. The report shall include the make, model and license number of each taxicab in operation along with documentation exhibiting current liability insurance. (1981 code, § 5-408, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-408. Taxicabs to be licensed and identified. No taxicab shall be operated unless it bears a state license duly issued. Each taxicab shall be equipped with a light on its top which identifies the vehicle as a taxicab. Each taxicab shall bear on the outside of each front door, in painted or permanently affixed letters not less than three (3) inches in height, the name of the company and may, in addition, bear an identifying design which has been approved by the Springfield Board of Mayor and Aldermen. Each taxicab shall bear on the rear and on each side, in painted or permanently affixed numbers not less than three (3) inches in height, a number identifying each taxicab. Any operating taxicab that is ten (10) years old or older shall undergo an annual mechanical safety inspection performed by a local automotive mechanical shop approved by the City of Springfield or the service shop of a new and/or used car dealership authorized to sell and service that particular make of vehicle. Any taxicab placed into operation after the effective date of this chapter must conform to the uniform paint color selected by the franchise holder for his vehicles. Any franchise holder whose taxicabs are non-compliant with the safety and identification requirements of this chapter shall immediately remove from operation any non-compliant taxicab or have his franchise revoked. Any franchise holder whose taxicabs were in operation prior to the effective date of this chapter and whose taxicabs are non-compliant with the safety and identification requirements of this chapter shall have ninety (90) days from the effective date of this chapter to bring his taxicabs into full compliance. Any franchise holder whose taxicabs were in operation prior to the effective date of this chapter and whose taxicabs are still non-compliant after ninety (90) days from the effective date of this chapter shall immediately remove from operation any non-compliant taxicab or have his franchise revoked. (1981 code, § 5-409, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-409. Annual mechanical safety inspection. Any taxicab required by this chapter to undergo an annual safety inspection shall be inspected for the proper operating condition of the vehicle's brakes; frame; power steering; tires; wheel studs and lug nuts; wheel bearings; rack and pinion steering or gear box steering; u-joints; struts; control arms and bushings; all steering parts including drag link, tie rods, tie rod ends, idler arm, pitman arm and ball joints; constant velocity axles, including joints and boots; headlights; turning lights; windshield wipers; horn; and rear vision mirror. Any system, part or mechanical device that fails inspection shall be repaired or replaced before the taxicab is returned to operation to carry passengers. The city clerk shall provide the franchise

holder with an annual mechanical safety inspection form for each taxicab that is to be completed by the local automotive mechanical shop approved by the City of Springfield or the service shop of the authorized sales and service dealership performing the inspection and signed by the service shop supervisor. The annual mechanical safety inspection form shall be returned to the city clerk fully completed and signed within three (3) days after the inspection, accompanied by receipts from the authorized sales and service dealership evidencing payment for the inspection and the performance of any required repairs or replacements. (1981 code, § 5-410, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-410. 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 or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12,. The insurance policy or bond required by this section shall contain provisions that it shall not be canceled except after at least twenty (20) days written notice is given by the insurer to both the insured and the city clerk. (1981 code, § 5-411, as amended by Ord. #091-09, Nov. 1991 and replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-411. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state 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 door may be operated by the passenger from the inside of the taxicab without intervention or assistance of the driver. The taxicab shall be equipped with seat belts and child restraint device. All drivers and passengers are required to use seat belts and each cab will have the appropriate child restraint device available for children as required by Tennessee State Law. 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 taxicab. (1981 code, § 5-412, as amended by Ord. #091-09, Nov. 1991 and replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-412. Cleanliness of vehicles. All taxicabs operated in the city shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1981 code, § 5-413, as amended by Ord. #091-09, Nov. 1991 and replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-413. Transfer of franchise. No franchise may be sold, assigned, mortgaged or otherwise transferred without the consent of the board of mayor and aldermen, and then only if the board shall be of the opinion that the purchaser or future operator thereof is in all respects qualified under the provisions of this chapter to conduct the business and to render the service for which the franchise was originally issued. (1981 code, § 5-414, as amended by Ord. #091-09, Nov. 1991 and replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-414. Suspension and revocation of franchise. A franchise issued under the provisions of this chapter may be revoked or suspended by the board of mayor and aldermen if the holder thereof has:

(1) (a) Violated any of the provisions of this chapter, ordinances, laws or regulations of the City of Springfield, the United States, or the State of Tennessee or any other state.

(b) Discontinued operations for more than five (5) days.

(2) Prior to any suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard by the board of mayor and aldermen. (1981 code, § 5-415, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-415. Taxicab driver's permit required. No person shall operate a taxicab upon the streets of Springfield and no person who owns or controls a taxicab shall permit it to be driven unless the driver has then in force a taxicab driver's permit issued by the city clerk. (1981 code, § 5-416, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-416. Qualifications and application for driver's permit. No person shall be issued a taxicab driver permit unless he complies with the following to the satisfaction of the chief of police and city clerk:

(1) Is at least twenty-one (21) years of age and holds a proper driver's license issued by the state of Tennessee;

(2) Is clean in dress and person;

(3) An application for taxicab driver permit shall be filed with the city clerk on forms provided by the city. The application shall be verified under oath and shall contain the following information:

(a) The name, address of current residence, date and location of birth and other personal information as required;

(b) Experience of the applicant in the transportation of passengers;

(c) Education and history of employment;

(4) Produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application;

(5) Has not been convicted, pled guilty, placed on diversion, probation or parole or pleaded nolo contendere to any felony within the last ten (10) years. If at the time of the application the applicant is charged with any such offenses the application shall be deferred until entry of a plea, conviction, acquittal, dismissal, or other final disposition of the charges;

(6) Has not been convicted, plead guilty, or pled nolo contendere to drunk driving, driving under the influence of any intoxicant or drug, hit and run, reckless or careless driving in the last five (5) years, or been involved in three (3) or more moving traffic violations during a period of three (3) years immediately preceding the date of application. If at the time of the application the applicant is charged with any such offenses the application shall be deferred until entry of a plea, conviction, acquittal, dismissal, or other final disposition of the charges;

(7) Is familiar with the state and local traffic laws;

(8) Provides a certified copy of driving record from the state motor vehicle department less than thirty (30) days old;

(9) Provides a copy of his/her current Tennessee driver license;

(10) Provides a criminal history from the FBI; or

(11) For the initial application for a taxicab driver permit only, provides a criminal history from the Tennessee Bureau of Investigation (TBI) less than thirty (30) days old and a receipt from the Robertson County Sheriff's Department as proof that the applicant has been fingerprinted in order to make application for an FBI criminal history. However, an initial taxicab driver permit issued with only a submitted criminal history from the TBI shall be deemed temporary and shall only be in effect for a maximum period of one hundred eighty (180) days. A completed FBI criminal history shall be submitted before the expiration of the temporary taxicab driver permit in order to convert the temporary taxicab driver permit to a permanent taxicab driver permit. The date of the issuance of the temporary taxicab driver permit shall then become the anniversary date of the permanent taxicab driver permit. A temporary taxicab driver permit shall not be renewable nor shall a former temporary taxicab permit holder, whose temporary permit expired, be allowed to apply for another temporary permit. An unexpired temporary taxicab driver permit shall be surrendered to the city clerk upon the issuance of a permanent taxicab driver permit. (1981 code, § 5-417, as replaced by Ord. #96-27, § 1, June 1996, Ord. #08-05, July 2008, Ord. #08-28, Dec. 2008, and Ord. # 11-04, June 2011)

9-417. Police investigation of applicant. The police department shall conduct an investigation on each applicant for a taxicab driver's permit and a report of such investigation and a copy of police record of the applicant, if any, shall be attached to the application for the consideration of the city clerk and chief of police. No license shall be issued to any person who is under twenty-one (21) years of age. (1981 code, § 5-418, as replaced by Ord. #96-27, § 1 June 1996, and Ord. #08-05, July 2008)

9-418. Consideration of application and issuance of permit. The city clerk and chief of police shall upon consideration of the application, and the reports and certificates required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the city manager to offer evidence why his application should be reconsidered. Upon approval of an application for a temporary or permanent taxicab driver permit the city clerk shall issue a permit to the applicant that shall bear the name, address, color, age and signature of the applicant. A permanent taxi driver permit shall be issued for one (1) year and shall expire on the anniversary date. An updated FBI criminal history record shall be submitted every five (5) years thereafter as a part of the annual permanent taxi driver permit renewal. A TBI criminal history less than thirty (30) days old shall be submitted with the annual permanent taxi driver permit renewal in every year that an FBI criminal history is not required. (1981 code, § 5-420, as replaced by Ord. #96-27, § 1, June 1996, Ord. #08-05, July 2008, and Ord. # 11-04, June 2011)

9-419. Fees. Each application for a new taxicab franchise or renewal of an existing taxicab franchise under the provisions of this chapter shall be accompanied by the applicable minimum business license as required by state law, along with a non-refundable fee in the amount of one hundred dollars (\$100.00). Each application for a temporary taxicab driver permit or renewal of a permanent taxicab driver permit shall be accompanied by a non-refundable application fee of twenty-five dollars (\$25.00). Each application for the annual renewal of a permanent taxicab driver permit shall be filed with the city clerk. The application shall include the non-refundable fee of twenty-five dollars (\$25.00), the required criminal history, and a certified copy of the driving record which is less than thirty (30) days old. There shall be a fee of twenty dollars (\$20.00) charged for the replacement of an unexpired taxicab driver permit that has been lost or damaged. (1981 code, § 5-421, as replaced by Ord. #96-27, § 1, June 1996, Ord. #08-05, July 2008, Ord. #08-28, Dec. 2008, and Ord. # 11-04, June 2011)

9-420. Display of permit. Every driver permitted under this chapter shall post his driver's permit in such a place in his taxicab as to be in full view of all passengers while such driver is operating the taxicab. (1981 code, § 5-422, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-421. Suspension and revocation of permits. The city manager may suspend any driver's permit issued under this chapter for a driver failing or refusing to comply with the provisions hereof, such suspension to last for a period or not more than sixty (60) days. However, there shall be no revocation in any instance without reasonable notice to the person or driver affected and after a reasonable hearing. Also any person who willfully and deliberately violates, or fails to comply with, or procures, aids, or abets in the violation of any

provision of this chapter shall be guilty of a misdemeanor. Every driver permitted under this chapter shall comply with all city, state, and federal laws. (1981 code, § 5-423, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-422. Rules of driver conduct. Taxicab drivers shall adhere to the following rules of conduct:

(1) No person shall drive a taxicab or be hired or permitted to do so unless he is properly licensed by the State of Tennessee.

(2) It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating or alcoholic beverage; to use any profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to unreasonably disturb the peace, quiet, and tranquility of the city in any way.

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

(4) Taxicab drivers shall always deliver their passengers to their destination by the most direct available route.

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

(6) No taxicab driver shall refuse or neglect to convey an orderly person, or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so.

(7) Drivers of taxicabs 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.

(8) Every driver of a taxicab shall have the right to demand payment of the regular fare in advance, and may refuse employment unless so prepaid.

(9) Every taxicab driver, while on duty shall keep a clean and well-groomed appearance and shall be dressed in a neat and professional manner. The following items of clothing are prohibited while operating a taxicab: t-shirts, exposed undergarments, tank tops, swimwear, jogging suits, body suits, cut off pants, sandals, clogs, and other similar attire. Offensive words or symbols on clothing are prohibited.

(10) Taxicab drivers shall not smoke in the vehicle or allow passengers to smoke inside the taxicab.

(11) Taxicab drivers must be able to speak English fluently. (1981 code, § 5-424, modified, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-423. Taxicab service to be comprehensive. Holders of a franchise shall maintain a central place of business for the purpose of receiving calls and dispatching cabs. They shall answer all calls received by them for services inside the corporate limits of Springfield as soon as they can do so and if said services cannot be rendered within a reasonable time they shall then notify the prospective passengers how long it will be before the said call can be answered and give the reason therefore. Any holder who shall refuse to accept a call anywhere in the corporate limits of the City of Springfield at any time when such holder has an available cab shall be deemed a violator of this chapter and the certificate granted to such holder shall be revoked at the discretion of the board of mayor and aldermen. (1981 code, § 5-425, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-424. Accidents. All accidents arising from or in connection with the operation of taxicabs shall be reported in accordance with the requirements of the state motor vehicle code. (1981 code, § 5-426, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-425. Police department duty to enforce chapter. The police department is hereby given the authority and is instructed to watch and observe the conduct of holders and drivers operating under this chapter. Upon discovering a violation of the provisions of this chapter, the police department shall report the violation to the city manager who will order or take appropriate action. (1981 code, § 5-427, as replaced by Ord. #96-27, § 1, June 1996, and Ord. #08-05, July 2008)

9-426. Fares and rates. All taxicabs operating under the provisions of this chapter shall charge a basic fee or rate which shall be approved by the board of mayor and aldermen. No changes in these rates shall be made at any time without the approval of the board. When changes are desired by the taxicab owners or operators to be made in the rate schedule, the taxicab owners or operators shall submit to the board a proposed schedule of rates showing the changes desired to be made. (as added by Ord. #08-05, July 2008)

9-427. Violations. Any person, firm or corporation violating any section of this chapter shall be guilty of a misdemeanor and subject to a fine under the general penalty clause for this code. (as added by Ord. #08-05, July 2008)

CHAPTER 5

YARD SALES

SECTION

- 9-501. Definitions.
- 9-502. Property permitted to be sold.
- 9-503. Locations.
- 9-504. Number of garage sales allowed.
- 9-505. Hours of operation.
- 9-506. Display of sale property.
- 9-507. Advertising.
- 9-508. Persons exempted from chapter.
- 9-509. Violations and penalty
- 9-510.--9-512. Deleted.

9-501. 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 zone, as defined by the zoning ordinance¹, for the purpose of disposing of personal property including but not limited to all sales entitled "garage" "lawn" "yard" "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than two (2) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold, such as a personal car or truck for sale, registered to the residential property owner.

(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 replaced by Ord. #17-13, Oct 2017)

9-502. 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 replaced by Ord. #17-13, Oct 2017)

9-503. Locations. Garage sales shall be held on residential property by the property owner, or with a residential neighborhood/subdivision yard sale.

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

Nonresidential and other off-premise garage sales are not allowed. (as replaced by Ord. #17-13, Oct 2017)

9-504. Number of garage sales allowed. Each residential property owner or residential neighborhood/subdivision shall be allowed to conduct two (2) yard sales each year. (as replaced by Ord. #17-13, Oct 2017)

9-505. Hours of operation. Garage sales shall be limited in time to no more than 8:00 A.M. to 6:00 P.M. on three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday). (as replaced by Ord. #17-13, Oct 2017)

9-506. 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 replaced by Ord. #17-13, Oct 2017)

9-507. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

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

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

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

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (as replaced by Ord. #17-13, Oct 2017)

9-508. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

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

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

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the City of Springfield, or under the protection of the nonconforming use section thereof,

or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (as replaced by Ord. #17-13, Oct 2017)

9-509. Violations and penalty. Complaints regarding exceeding the allowed number of residential garage sales and associated violations shall be investigated by a city codes official, and if found to be in violation, issued a citation as provided by title 6, chapter 3. Nonresidential and off-premise garage sales shall be found in violation of this chapter and issued a citation or summons by a city police officer. Any person found guilty of violating the terms of this chapter shall be punished according to the general penalty provisions of this municipal code of ordinances. (as replaced by Ord. #17-13, Oct 2017)

9-510.–9-512. Deleted. (as deleted by Ord. #17-13, Oct. 2017)

CHAPTER 6

ADULT ORIENTED BUSINESS ESTABLISHMENTS

SECTION

- 9-601. Purpose and intent; findings.
- 9-602. Definitions.
- 9-603. License to operate -- general.
- 9-604. Same application.
- 9-605. Employees and entertainers/performers permits; application.
- 9-606. Investigations of applicants' qualifications.
- 9-607. Qualifications for license to operate, permit.
- 9-608. Inspections; notice of results.
- 9-609. Injunctions.
- 9-610. Revocation, suspension or annulment of licenses.
- 9-611. Termination and renewal of licenses and permits; applications; fees.
- 9-612. Prohibited hours of operation; hours open for inspection.
- 9-613. Duties and responsibilities of operators, entertainers/performers/
employees.
- 9-614. Prohibited activities.
- 9-615. Exhibition of films, videos or live sex shows in booths, cubicles, rooms
or stalls.
- 9-616. Display of license.
- 9-617. Adult entertainment appeals board - created.
- 9-618. Same -- membership; terms; compensation.
- 9-619. Same -- vacancy and removal.
- 9-620. Same -- officers and staff.
- 9-621. Same -- meetings.
- 9-622. Same -- powers.
- 9-623. Same -- procedures of hearing.
- 9-624. Penalties for violation.

9-601. Purpose and intent; findings. It is the purpose of this chapter to regulate adult-oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to govern the operation of adult-oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. (As added by Ord. #95-19, § 1, Oct. 1995)

9-602. Definitions. As used in this chapter, unless the context otherwise requires:

"Adult arcade" Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting [and/or] describing of specified sexual activities or specified anatomical areas.

"Adult book store" An establishment having as more than 50% of the face value of its stock in trade, books, magazines, motion pictures, periodicals and other materials which are distinguished or characterized by depicting, describing, or relating to "specified anatomical areas" as defined below.

"Adult motion picture theater" Any public place, whether open or enclosed, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities," or "specified anatomical areas" (as defined below) for observation by patrons therein.

"Adult-oriented establishment" Includes but is not limited to "adult bookstores," "adult motion picture theaters," or "adult cabarets" and further means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member when such entertainment is held, conducted, 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, model studio, escort service, escort or any other term of like import.

"Adult theater or adult cabaret" A theater, concert hall, auditorium, nightclub, club, bar, restaurant or similar commercial establishment which regularly features:

- (1) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (2) Films, motion pictures, videocassettes, slides, or other video or photographic reproductions which are characterized by the depiction of specified sexual activities or specified anatomical areas.

"Board" The adult entertainment appeals board.

"City" The City of Springfield.

"Employee" Any person who performs any service on the premises of an adult-oriented establishment on a full-time, part-time, or contract basis, whether or not the person is denominated as any employee, independent

contractor, agent or otherwise. "Employee" does not include a person exclusively on the premises for repair of the premises or for delivery of goods to the premises.

"Entertainer/performer" 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 an employee or as an independent contractor.

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

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

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

"Operator" Any person, partnership, or any other type of organization where two or more persons have a financial interest, joint venture or corporation operating, conducting or maintaining an adult-oriented establishment.

"Specified anatomical areas" means:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola; and

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

"Specified sexual activities" means:

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

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

(3) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (As added by Ord. #95-19, § 1, Oct. 1995)

9-603. License to operate - general. (1) Except as provided in subsection (5), from and after the effective date of this part,¹ no adult-oriented establishment shall be operated or maintained in the city without first obtaining a license to operate issued by the city clerk.

¹These provisions were taken from Ord. #95-19, which passed 3rd reading Oct. 17, 1995.

(2) A license may be issued only for one adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one adult-oriented establishment must have a license for each location.

(3) No license or interest in a license may be transferred to any person, partnership or corporation. No person who is ineligible to obtain a license under the chapter shall be eligible to serve as the agent of a license under this section.

(4) No person shall be an entertainer/performer or employee on the premises of an adult-oriented business without first obtaining a valid work permit issued by the city clerk. A work permit, once issued, shall be valid for employment of the employee or entertainer/performer at any adult-oriented business within the city.

(5) It is unlawful for any entertainer/performer, 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.

(6) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within thirty (30) days of the effective date of this chapter. If a license is not applied for within such thirty-day period, then such existing adult-oriented establishment shall cease to operate.

(7) No license shall be issued by the city clerk unless the applicant certifies, by proof satisfactory to the clerk, that the applicant has satisfied the rules, regulations and provisions of the applicable zoning requirements in the city. Any zoning requirement shall be in addition to and an alternative to any requirement of this legislation.

(8) No adult-oriented establishment shall be operated or maintained in the city within fifteen hundred (1,500) feet, measured from property line to property line, of a school, educational facility, church or place of worship, day-care center, nursing home, library, park, cemetery, mortuary or hospital.

(9) The property line of such establishment shall not be located closer than 1,500 feet from the site of any public amusement or entertainment activity, public gathering places, including, but not limited to, any area devoted to public recreation activity, city hall, city parks, arcades, motion picture theaters, bowling alleys, golf courses, miniature golf, playgrounds, ice-skating or roller-skating rinks, or arenas, community centers and similar amusements offered to the general public.

(10) No adult-oriented establishment shall be operated or maintained in the city within two hundred (200) feet, measured from property line to property line, of a boundary of a residential zone.

(11) No adult-oriented business establishment shall be operated or maintained in the city within fifteen hundred (1,500) feet, measured from property line to property line, of another adult-oriented business establishment. (As added by Ord. #95-19, § 1, Oct. 1995)

9-604. Same application. (1) Any person, partnership, or corporation, or any other type of organization where two or more persons have a financial interest, desiring to secure a license shall make application to the city clerk. The city clerk shall establish procedures for the issuance of a license.

(2) The application for a license shall be upon a form provided by the clerk. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of the total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of a plus or minus six (6) inches. In addition, the diagram of any adult-oriented business which exhibits, on the premises, in a viewing booth of less than one hundred fifty (150) square feet of floor space, a film, videocassette, or other video reproduction, or which provides private or semiprivate booths or cubicles for viewing live sex shows which depict specified sexual activities or specified anatomical areas must comply with the requirements of section 9-613 of this chapter.

(3) An applicant for a license, including any partner or limited partner of the partnership applicant, and any officer or director of the corporation rate applicant who is also interested directly in the actual operation of the business shall furnish the following information under oath:

(a) Name and address, including any aliases;

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

(c) Whether such applicant has been convicted of or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving obscenity, or any crime involving the sexual exploitation of children;

(d) Whether such applicant has previously violated this chapter within the five (5) years immediately preceding the date of the application;

(e) The address of the adult-oriented establishment to be operated by the applicant.

(4) A license fee of three hundred dollars (\$300.00) shall be submitted with the application for a license. (As added by Ord. #95-19, § 1, Oct. 1995)

9-605. Employees and entertainers/performers permits; application.

(1) Any person desiring to secure a permit shall make application to the city clerk. The city clerk shall establish procedures and criteria for the issuance of a permit. The application shall be filed in triplicate with and dated by the city clerk.

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

- (a) Name and address, including any aliases;
- (b) Written proof that the individual is at least eighteen (18) years of age;
- (c) Whether such applicant has been convicted of or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving obscenity, or any crime involving the sexual exploitation of children;
- (d) Whether such applicant has previously violated this chapter within the five (5) years immediately preceding the date of the application;
- (e) A permit fee of sixty dollars (\$60.00) shall be submitted for a permit. (As added by Ord. #95-19, § 1, Oct. 1995)

9-606. Investigations of applicants' qualifications. (1) No license or permit shall be issued unless the city police department has investigated all applicant's qualifications to be licensed. The results of that investigations shall be filed in writing with the chief of police no later than twenty (20) days after the date of the application. Within ten (10) days, or a reasonable time thereafter, of receiving the results of the investigation conducted by the city police department, the city clerk shall notify the applicant that the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the city clerk shall advise the applicant in writing whether the application is granted or denied.

(2) Whenever an application is denied or held for further investigation, the city clerk 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, at which time the applicant may present evidence bearing upon the question.

(3) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding the application or the applicant's refusal to submit to or cooperate with any investigation required by this part constitutes an admission by the applicant that the applicant is ineligible for such license and shall be ground for denial thereof by the chief of police. (As added by Ord. #95-19, § 1, Oct. 1995)

9-607. Qualifications for license to operate, permit. (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, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving the sexual exploitation of children; and

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

(b) If the applicant is a corporation:

(i) All officers and directors of the corporation shall be at least eighteen (18) years of age;

(ii) No officer or director shall have been convicted of, or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving obscenity, or any crime involving the sexual exploitation of children; and

(iii) No officer or director shall have previously violated this chapter within the five (5) years immediately preceding the date of the application.

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

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

(ii) No such person shall have been convicted of, or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving obscenity, or any crime involving the sexual exploitation of children; and

(iii) No such person shall have previously violated this chapter within the five (5) years immediately preceding the date of the application.

(2) To receive a permit, the applicant must meet the following qualifications:

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

(b) The applicant shall not have been convicted of, or pleaded nolo contendere to, any of the offenses of aggravated rape, rape, aggravated sexual battery, indecent exposure, prostitution, patronizing

prostitution, promoting prostitution, aggravated prostitution, rape of a child, any crime involving the sexual exploitation of children; and

(c) The applicant shall not have previously violated this chapter within the five (5) years immediately preceding the date of the application. (As added by Ord. #95-19, § 1, Oct. 1995)

9-608. Inspections; notice of results. In order to effectuate the provisions of this chapter, the chief of police or his/her authorized representative, as well as the city building and codes department, is empowered to conduct investigations of persons engaged in the operation of any adult-oriented establishment and inspect the license of the operators and the premises of an establishment for compliance. Refusal of an operation or establishment to permit inspections shall be grounds for revocation, suspension or refusal to issue licenses provided by this part. (As added by Ord. #95-19, § 1, Oct. 1995)

9-609. Injunctions. The chief of police has the power and authority to enter into any court of the State of Tennessee having proper jurisdiction to seek an injunction against any person or adult-oriented establishment not in compliance with the provisions of this chapter, and is further empowered to enter into any such court to enforce the provisions of this chapter in order to ensure compliance with such provisions. (As added by Ord. #95-19, § 1, Oct. 1995)

9-610. Revocation, suspension or annulment of licenses.

(1) The chief of police shall revoke or suspend a license for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application.

(b) The operator or entertainer/performer, or any employee of the operator, violates any provision of this part or any rule or regulation adopted by the chief of police pursuant to this chapter; provided, that in the case of a first offense by an operator where the conduct was solely that of an employee or entertainer/performer, the penalty shall not exceed a license suspension of thirty (30) days if the chief of police 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, entertainer/performer, or employee becomes ineligible to obtain a license or permit.

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

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

(f) Any intoxicating liquor or alcoholic beverage is served or consumed on the premises of the adult-oriented establishment.

(g) There exists on the premises a violation of law which threatens the public health or safety; provided, however, that prior to a suspension of any license on this ground, the operator will be given written notice of the condition giving rise to the threat to health or safety and will be given ten (10) days to rectify the situation before the notice of suspension is sent.

(2) The chief of police, before revoking or suspending any license or permit, shall give the holder thereof at least ten (10) days' written notice of the charges against the holder and the opportunity for a public hearing before the board, at which time the holder may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. If the licensee or permittee requests a hearing in writing within ten (10) days, no action shall be taken to revoke or suspend the license or permit until the hearing has been held in accordance with board procedure and the board has rendered a decision.

(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 non-individual operator's license shall automatically and immediately revoke the license held by the operator.

(4) Any operator whose license is revoked shall not be eligible to receive a license for five (5) years from the date of revocation. (As added by Ord. #95-19, § 1, Oct. 1995)

9-611. Termination and renewal of licenses and permits; applications; fees. (1) Every license and permit issued under this part will terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator, employee or entertainer/performer desiring to renew a license or permit shall make application to the city clerk. The application for renewal must be filed not later than sixty (60) days before the license or permit expires. The application for renewal shall be filed in triplicate with and dated by the city clerk. The application for renewal shall contain such information and data, given under oath or affirmation, as may be required by the chief of police, but not less than the information contained in the original application.

(2) Fees.

(a) A license renewal fee of fifty dollars (\$50.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of twenty dollars (\$20.00) shall be assessed against the applicant who files for a renewal less than thirty (30) days before the license expires.

(b) A permit renewal fee of twenty dollars (\$20.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of ten dollars (\$10.00) shall be assessed against the

applicant who files for a renewal less than thirty (30) days before the license expires.

(3) Whenever a renewal application is denied, the city clerk shall send notice to the applicant by certified mail informing him in writing of the specific reasons for such action. The notice shall inform the applicant of his right to request a hearing before the board within ten (10) days of receipt of the notice of denial. If the applicant requests a hearing in writing within ten (10) days, the applicant's current permit or license shall remain in effect until the board has rendered a decision on the applicant's appeal.

(4) If the city police department is aware of any information bearing on the operator's or employee's or entertainer/performer's qualifications, the information shall be filed in writing with the chief of police not later than ten (10) days after the date of the application renewal. (As added by Ord. #95-19, § 1, Oct. 1995)

9-612. Prohibited hours of operation; hours open for inspection.

(1) No adult-oriented establishment shall be open between the hours of 12:00 a.m. and 8:00 a.m. on weekdays or between the hours of 12:00 a.m. and 12:00 p.m. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the city police department or such other persons as the chief of police may designate. (As added by Ord. #95-19, § 1, Oct. 1995)

9-613. Duties and responsibilities of operators, entertainers/performers/employees. (1) The operator shall maintain a register of all employees and entertainers/performers, showing the name, the aliases used by the individual, home address, birth date, telephone number, date of employment and termination, and duties of each employee. The above information on each employee/entertainer/performer shall be maintained in the register on the premises for a period of three (3) years following termination of working at the establishment.

(2) The operator shall make the employee register available immediately for inspection by the chief of police or city police department upon demand of a member of the chief of police or city police department at all reasonable times.

(3) Every act or omission by an employee/entertainer/performer constituting a violation of the provisions of this part shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's or entertainer/performer'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 cause the omission.

(4) An operator shall be responsible for the conduct of all employees and entertainers/performers while on the licensed premises and any act or

omission of any employee or entertainer/performer constituting a violation of the provisions of this part 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) No operator, employee or entertainer/performer 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 herein defined. (As added by Ord. #95-19, § 1, Oct. 1995)

9-614. Prohibited activities. (1) No operator, entertainer/performer or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform, or allow patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

(3) No operator, entertainer/performer or employee of an adult-oriented establishment shall be unclothed or in such attire, costume or clothing so as to commit the offense of public nudity. (As added by Ord. #95-19, § 1, Oct. 1995)

9-615. Exhibition of films, videos or live sex shows in booths, cubicles, rooms or stalls. A person who operates or causes to be operated an adult-oriented business which exhibits on the premises, in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, videocassette, or other video reproduction, or which provides private or semiprivate booths or cubicles for viewing live sex shows, which depict specified sexual activities or specified anatomical areas shall comply with the following requirements:

(1) Upon application for an adult-oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designate street or object and should be drawn to a designate scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The chief of police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) It is the duty of the owners and operators of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises. Further, it is the duty of the owners and operators of the premises and the employees who are present to ensure that no more than one person occupies a booth, cubicle, viewing room or stall at any time, and that all entrances to booths or other viewing areas (and to the aisles, walkways and hallways leading to booths or other viewing areas) are maintained free of any obstruction such as a door, curtain, panel, board, plat, ribbon, cord, rope, chain or other device.

(3) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(4) It shall be the duty of the owners and operators, and it shall also be the duty of all employees present in the premises, to ensure that the line of sight and view area specified in subsection (3) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(5) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot candle as measured at the floor level.

(6) It shall be the duty of the owners and operators and it shall be the duty of all employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(7) No operator, owner or employee shall allow openings of any kind to exist between viewing rooms or booths, and no person shall make or attempt to make an opening of any kind between booths or rooms. The operator or owner shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(8) The owner or operator shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting, and shall cause all wall surfaces and seating surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable materials. (As added by Ord. #95-19, § 1, Oct. 1995)

9-616. Display of license. A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

THIS ADULT-ORIENTED BUSINESS IS REGULATED BY THE OFFICIAL CODE OF THE CITY OF SPRINGFIELD, SECTION 9-601 ET SEQ. EMPLOYEES AND PERFORMERS ARE NOT PERMITTED TO HAVE SEXUAL CONTACT WITH PERSONS ON THE PREMISES. (As added by Ord. #95-19, § 1, Oct. 1995)

9-617. Adult entertainment appeals board -- created. There is created for the city the adult entertainment appeals board, sometimes referred to in this chapter as the "board." (As added by Ord. #95-19, § 1, Oct. 1995)

9-618. Same -- Membership; terms; compensation. The Board shall consist of seven (7) members. Each ward representative shall be appointed to that membership by the alderman for that ward. The mayor shall appoint a member at large who shall be deemed the chairperson. Each term of office shall run concurrent with the elected officials term of office. Members of the board shall serve without compensation. (As added by Ord. #95-19, § 1, Oct. 1995)

9-619. Same -- vacancy and removal. Any vacancy due to any cause shall be filled for the unexpired term in the same manner as the original appointment. Any member of the board may be removed from office for cause by a three-fourths (3/4) vote of the city council after a hearing by the city council. (As added by Ord. #95-19, § 1, Oct. 1995)

9-620. Same -- officers and staff. The board shall elect from its membership a vice chairman, who shall be selected for one-year terms. The chief of police or his duly authorized representative shall serve as the secretary of the board and shall serve as the custodian of its records and minutes. (As added by Ord. #95-19, § 1, Oct. 1995)

9-621. Same -- meetings. Regular sessions of the board shall be held once each month on such date and at such time and place as established by the board, unless no business is scheduled to come before the board, in which case no meeting need be held. The presence of four (4) members shall constitute a quorum, and the concurring vote of at least four (4) members shall be necessary to uphold or overturn a decision of the chief of police. (As added by Ord. #95-19, § 1, Oct. 1995)

9-622. Same -- powers. The board is hereby vested with the power to assist in the regulation of adult-oriented businesses by:

(1) Hearing and deciding appeals from any order, requirement, decision or determination made by the chief of police in carrying out the enforcement of this chapter, whereby it is alleged in writing that the chief of police is in error.

(2) Promulgating such rules and regulations as are necessary for the conduct of its meetings and to carry out its duties, and filing such rules with the city clerk.

(3) Compelling the attendance of witness, the production of books, papers, records, or other documents relevant or material to any matter in question before the board. (As added by Ord. #95-19, § 1, Oct. 1995)

9-623. Same -- procedures of hearings. (1) Upon receiving a written request for a hearing, the board shall send the party requesting the hearing a notice stating the time and place of the hearing and the right to be represented by counsel. All hearings shall be open to the public.

(2) At the hearing of the case, the party requesting the hearing shall appear on his own behalf or be represented by counsel. All witness shall be sworn. The chairman shall allow the appealing party to present witnesses on his behalf and to cross examine all witness testifying against him.

(3) All decisions of the board shall be in writing, setting forth the findings of the board, and shall be signed. Any decision of the board to deny, suspend, or revoke a license or permit shall not take effect earlier than ten (10) days after the date the decision was rendered in order that the party receiving the decision may have adequate time to seek judicial review.

(4) Minutes shall be kept of all proceedings before the board in permanent form, and a record shall be kept of the actions of the board with respect to all hearings.

(5) A record (which may consist of a tape or similar electronic recording) shall be made of all oral proceedings. Such record or any part thereof shall be transcribed on request of any party at such party's expense, or may be transcribed by the board at its expense. If the board elects to transcribe the proceedings, any party shall be provided copies of the transcript upon payment to the agency of a reasonable compensatory fee. Should a party desire a court reporter to be present at the hearing, he or his representative must arrange for the court reporter's presence.

(6) Any party aggrieved by an action of the board may appeal the board's decision to a court of competent jurisdiction. (As added by Ord. #95-19, § 1, Oct. 1995)

9-624. Penalties for violation. (1) Any person, partnership or corporation, or any other type of organization where two or more persons have a financial interest, who is found to have violated this chapter shall be fined a definite sum not exceeding the maximum fine for the violation of any Springfield municipal ordinance; such violation shall be grounds for the suspension or revocation of any license.

(2) Each violation of this part shall be considered a separate offense, and any violation continuing more than twenty-four (24) hours shall be considered a separate offense for each day of violation. (As added by Ord. #95-19, § 1, Oct. 1995)