

## TITLE 9

### BUSINESS, PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

#### CHAPTER

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#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

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

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

business within ninety (90) days he shall prima facie be deemed to have violated this section. (1985 Code, § 5-101)

**9-102. Garage sales.** (1) For the purposes of this section the following terms are defined and shall be construed as follows:

(a) "Garage sale" shall be the offering for sale or exchange, or the sale or exchange, to the public of any personal property of any kind or description at a sale held upon privately owned residential property.

(b) "Residential property" is any real estate, lot or tract in the City of Maryville which is used primarily for residential purposes.

(2) It shall be unlawful for any person, firm, partnership, corporation or association to advertise, promote, conduct or hold any garage sale within the corporate limits of the City of Maryville except as herein provided.

(3) Not more than two (2) garage sales may be held during any calendar year at any one (1) residential property, the duration of each sale not to exceed three (3) days, and provided further that before any such sale may be held application to hold said sale must be made by the occupant of said property to the city inspection officer who shall issue a written permit without charge or fee therefor, and provided further that all personal property offered for sale or sold at said sale shall be owned at the time of sale by the occupant of said residential property and shall not have been purchased by the occupant for the purpose of resale. In the case of a coordinated neighborhood garage sale, residents may apply for their permits individually, or a representative of the neighborhood can apply on behalf of the various participants, so long as the representative can identify the names and addresses of all the participants. In either case, the sale shall count toward the two (2) permissible annual garage sales for each participating residential location.

(4) Court-ordered sales and sales by executors or administrators in the settlement of estates are excepted from the provisions of this section.

(5) Sales of personal property which are advertised by newspaper or radio for private appointment only and are in addition not advertised by sign or signs either on or off of the premises and are in addition not exhibited on the premises in such manner as to indicate a public sale, are exempt from the provisions of this section.

(6) As set forth in subsection (1)(a) above, the term "garage sale" applies only to sales held by residents upon privately owned residential property. Private individuals cannot hold garage sales off-site on non-residential property, even with the property owner's permission.

(7) All businesses and all business establishments which are properly licensed to conduct retail or wholesale sales are exempt from the provisions of this section. Said businesses may display their goods out of doors and/or hold "sidewalk sales" if allowed by the zoning and land use ordinance and; as long as adequate parking is retained for customers; as long as such display activities and/or outdoor sales areas do not create traffic congestion on adjoining streets

and rights-of-way; and as long as any designated fire lanes are adequately protected and preserved from any encroachments. (1985 Code, § 5-102, as amended by Ord. #2012-06, Feb. 2012)

**9-103. Public rummage sales.** (1) For the purposes of this section, the term "public rummage sale" is defined as a sale that is organized or operated for charitable, religious, community or educational purposes and which is conducted by an organization, corporation, church, civic club, etc., where members of the group donate or solicit items for the organization to sell from the organization's location for the purpose of raising money for use by themselves or others. For the purpose of this section, "sale" means either a cash transaction or the giving away of items in return for a donation.

(2) Not more than two (2) outdoor public rummage sales may be held during any calendar year at any one (1) location, the duration of the sale may not exceed three (3) days, and provided further that before any such sale may be held an application to hold said sale must be made by an officer or authorized representative of said organization.

(3) Indoor public rummage sales may be held no more than once a month for no more than two (2) consecutive days, as long as no goods are displayed out of doors.

(4) A public rummage sale must be held on property that is used primarily for non-residential purposes. Organizations that do not have their own physical location may apply for a public rummage sale permit on an independently owned site with the property owner's written permission as part of the application.

(5) Any site proposed for a public rummage sale must have adequate area to allow for the outdoor display of goods, if any, and enough parking to accommodate customers without creating traffic congestion on adjoining streets and rights-of-way. (as added by Ord. #2012-06, Feb. 2012)

**9-104. Flea markets.** For the purposes of this section, the term "flea market" is defined as a building or portion of a building where individual market stalls or spaces are rented or leased by persons on a daily or other basis, to display, buy, sell, exchange or deal in new or used goods and services. Flea markets are sometimes referred to as swap meets, and would also include antique malls and similar uses. In the City of Maryville flea markets must be conducted wholly within an enclosed building. Outdoor flea markets are not permitted. Flea markets are regulated as retail businesses and must have a current business license and shall be located and developed in accordance with applicable zoning and building code regulations. (as added by Ord. #2012-06, Feb. 2012)

**9-105. Farmers' markets.** For the purposes of this section, the term "farmers' market" is defined as an occasional or periodic market, with goods

offered for sale to the general public by individual sellers from open-air or semi-enclosed facilities or temporary structures. Food and agricultural products that are primarily local in origin must comprise the majority of items for sale, along with horticultural products and locally produced craft items. Secondhand goods cannot be offered for sale. (as added by Ord. #2012-06, Feb. 2012)

**9-106. Consignment stores and thrift shops.** (1) For the purposes of this section, the following terms are defined and shall be construed as follows:

(a) "Consignment store" is a retail business establishment in which the proprietor primarily sells used items (generally clothing) owned by third parties in return for a percentage of the sales proceeds.

(b) "Thrift shop" is a retail business establishment in which the proprietor primarily sells used items (generally clothing, household goods and children's items) that have been acquired through donation or purchase, with the proprietor retaining the sales proceeds. Some thrift shops are managed by non-profit organizations that use the proceeds to support their charitable operations.

(2) Both consignment stores and thrift shops are retail business operations that must conform to the city's zoning ordinance and its business licensing requirements. (as added by Ord. #2012-06, Feb. 2012)

**9-107. Private vehicle sales.** (1) For the purpose of this section, the following terms are defined and shall be construed as follows:

(a) "Private vehicle sale" shall be the offering for sale or exchange or the sale of exchange to the public of any vehicle including a car, truck or motorcycle (or any other type of vehicle that requires a license for operation on public streets) at a sale held on privately owned residential property.

(b) "Residential property" is any real estate, lot or tract located in the City of Maryville which is used primarily for residential purposes.

(2) It shall be unlawful for any person, firm, partnership, corporation or association to advertise, promote, conduct or hold any private vehicle sale within the corporate limits of the City of Maryville except as provided herein.

(a) Not more than one (1) private vehicle sales may be held during any one (1) calendar year at any one (1) residential property. The vehicle offered for the private vehicle sale shall be owned at the time of the sale by the occupant of the residential property and shall not have been purchased by the occupant for the purpose of resale.

(b) Each such private vehicle sale may last no longer than sixty (60) continuous days.

(c) Court ordered sales and sales by executors or administrators in the settlement of estates are exempted from the provisions of this section.

(d) Sales of vehicles which are advertised by newspaper or radio for private appointment only and which are not advertised by signs either on or off the premises or on the vehicle and are not exhibited on the premises in such a manner to indicate public sale are exempt from the provisions of this section. (as added by Ord. #2002-33, Oct. 2002, and renumbered by Ord. #2012-06, Feb. 2012)

## CHAPTER 2

### PEDDLERS, SOLICITORS, ETC.<sup>1</sup>

#### SECTION

- 9-201. Permit required.
- 9-202. Definitions.
- 9-203. Exemptions.
- 9-204. Eligibility.
- 9-205. Permit procedure.
- 9-206. Business license required.
- 9-207. Restrictions on permit holders in general.
- 9-208. Additional restrictions on transient vendors.
- 9-209. Display of permit, business license, etc.
- 9-210. Revocation of permit.
- 9-211. Violation and penalty.
- 9-212. Suspension of permitting during Foothills Fall Festival.

**9-201. Permit required.** It shall be unlawful for any peddler, solicitor, solicitor for charitable or religious purposes, street barker, or transient vendor to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1985 Code, § 5-201)

**9-202. Definitions.** Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler" means any person who individually or as an agent or employee of any firm, corporation, or organization, who has no permanent regular place of business and who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale, or offering personal services for sale.

(2) "Solicitor" means any person, who individually or as an agent or employee of any firm, corporation or organization, who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, personal property of any nature whatever for future delivery, or services of any kind or nature, except

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<sup>1</sup>Municipal code reference  
Privilege taxes: title 5.

that the term shall not include solicitors for charitable and religious purposes as that term is defined below.

(3) "Solicitor for charitable or religious purposes" means any person who individually or as an agent or employee of any firm, corporation or organization who goes from dwelling to dwelling without an invitation or request from the occupant, or from business to business, or from place to place, or from street to street, soliciting contributions from the public for any charitable or religious organization. No person, firm, corporation or organization shall qualify as a solicitor for religious purposes unless it meets one of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or a similar "umbrella" organization for charitable or religious organizations organized and operating in the Blount County area.

(c) Has been in continued existence as a charitable or religious organization in Blount County for a period of two (2) years prior to the date of its application for registration under this chapter.

(4) "Street barker" means any person who engages in the business or conduct as a peddler individually or as an agent or employee of any firm, corporation or organization during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(5) "Transient vendor" means any person who individually or as an agent or employee of any firm, corporation or organization who brings into temporary premises and exhibits stocks of merchandise to the public, or offers to perform services or entertainment. 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 business or residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle, which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (1985 Code, § 5-202)

**9-203. Exemptions.** The terms of this chapter shall not apply to:

(1) Persons selling at wholesale to dealers, newsboys, bona fide merchants who merely deliver goods in the regular course of business;

(2) Persons selling agricultural products, who themselves produced the products being sold;

(3) Persons involved in fund raising activities or programs by any public school, and

(4) Craft shows, antique shows, gun shows, auto shows and similar temporary shows and exhibits which are not open or operating as public facilities for such particular purpose for more than fourteen (14) days during any calendar year, except that the owner, manager, operator or promoter of each such facility shall be required to obtain a business license and shall prior to opening and operating such facility pay a fee of \$100.00 to the City of Maryville which shall be valid at the particular location for up to fourteen (14) consecutive days. This exemption does not apply to a carnival or fair as defined in this title. Instead, a carnival or fair must expressly obtain a transient vendor license in order to lawfully operate a carnival or fair within the city. (1985 Code, § 5-203, as amended by Ord. #2003-12, May 2003)

**9-204. Eligibility.** It is the intent of this section to treat each person, and each firm, corporation and organization, and each agent for same, and each person who as an employee or who in any other capacity for such firm, corporation or organization, is covered by this chapter, as a separate person for the purposes of investigation and payment of the permit fee.

Individuals, firms, corporations and organizations are eligible for a permit under this chapter. Persons applying for an individual permit under this chapter shall complete an application on forms provided by the city, and pay the permit fee. Agents applying for a permit for a firm, corporation, or organization under this chapter shall complete a separate application, and pay a separate permit fee for, the firm, corporation or organization, and the agent and for each individual who as an employee of, or in any other capacity for, the firm, corporation or organization, will engage in the business or conduct of a peddler, solicitor, transient vendor, or street barker. (1985 Code, § 5-204)

**9-205. Permit procedure.** (1) Application form. The application shall be sworn to by the applicant, and shall contain:

(a) Name, date of birth, social security number or other identification number of the applicant, his or her physical description, and a copy of his or her drivers license.

(b) The following complete addresses and telephone numbers of the applicant:

- (i) Permanent.
- (ii) Permanent business.
- (iii) Local residential.
- (iv) Local business.

(c) If the applicant is an agent or employee of a firm, corporation or organization, the written credentials establishing the applicant's employee or any other agency relationship with the firm, corporation or organization.

(d) A statement as to whether or not the applicant has been convicted of any felony within the past ten (10) years, or any misdemeanor other than a minor traffic violation within the past three (3) years, the date and place of any conviction, the nature of the offense, and the punishment or penalty imposed.

(e) The last three (3) cities, towns, or other political subdivisions (if that many) the applicant engaged in the business or conduct as a peddler, solicitor, solicitor for religions or charitable purposes, transient vendor, or street barker immediately prior to making application for a permit under this chapter, and the complete addresses, if any, of the applicant listed under (b) above in those cities, towns or other political subdivisions.

(f) Two photographs of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, measuring at least two inches by two inches, and showing the head and shoulders of the applicant in a clear and distinguishing manner.

(g) A brief description of the type of business and the goods to be sold, or in the case of solicitors for charitable or religious purposes, the function of the organization.

(h) The dates for which the applicant intends to do business or make solicitations.

(i) The make, model, complete description, and license tag number and state of issue, of each vehicle the applicant intends to use to make sales or solicitations, whether or not such vehicle is owned by the person making sales or solicitations, or by the firm, corporation or organization itself, or rented or borrowed from another business or person.

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

(2) Permit fee. Each applicant for a permit as a peddler, solicitor, or transient vendor shall submit with his application a nonrefundable fee of one hundred dollars (\$100.00). Each applicant for a permit as a street barker shall submit with his application a nonrefundable fee of seventy-five dollars (\$75.00). There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes.

(3) Denial or approval of permit. (a) Investigation. Upon the receipt of the application and the payment of the permit fee, the chief of police or his authorized designee shall make an investigation of the applicant for the protection of the public health, safety and general welfare of the public. Each person applying for a permit shall be fingerprinted by the chief of police or his designee, except that this requirement shall not apply to persons soliciting or peddling for charitable or religious purposes. The police chief shall make a good faith effort to complete the investigation within three complete working days, excluding Saturdays, Sundays and holidays of the city. If the investigation is not complete within that period, the reasons shall be noted on the application. In no event shall the period of the investigation exceed ten (10) days.

(b) Denial of permit. The city recorder shall deny the applicant permit if the investigation discloses that:

(i) The applicant has been convicted of a felony within the past ten (10) years or has been convicted of a misdemeanor other than a minor traffic violation within the past three (3) years; or

(ii) Any information in the application that is materially false or misleading; or

(iii) The business reputation of the applicant is such that the applicant constitutes a threat to the public health, safety or general welfare of the citizens of the city.

(iv) The information supplied in the application is insufficient to permit the chief of police to make a determination under (i), (ii) or (iii) above.

The application of a firm, corporation or organization may be rejected if the investigation discloses no information that would disqualify it for a permit where the investigation of the agent or a prospective peddler, solicitor, solicitor for charitable purposes, street barker or transient vendor for the firm, corporation or organization discloses information that disqualifies any of them for a permit.

(c) Approval of permit. If the investigation discloses no grounds for the denial of the permit, the city recorder shall issue a permit to the applicant.

(d) Appeal of denial. The refusal of the police chief to issue a permit may be appealed to the city manager. The aggrieved applicant, may within ten (10) days following the date the notice of the refusal of the police chief to issue a permit was mailed to the applicant, appeal the refusal by giving the city manager written notice of appeal, stating the grounds for the appeal. The city manager shall set a hearing on the appeal for a date falling within ten (10) days following the date of the receipt of the appeal. The decision of the city manager shall be final.

(4) The permit. The permit shall show the name of the permittee and (if the permittee is a firm, corporation or organization) the name of the solicitor, solicitor for charitable purposes, street barker or transient vendor, the kind of goods and/or services authorized to be sold, the amount of the permit fee paid, the date of issuance of the permit, and the period of the permit, and shall have attached a copy of a photograph of the permittee.

(5) Expiration and renewal of permit. The permit of peddlers, solicitors, and peddlers and solicitors for religious and charitable purposes shall expire sixty (60) days from the date of issuance. The permit of city transient vendors shall expire six (6) months from the date of issuance. The permit of street barkers shall for a period corresponding to the dates of the recognized parade or festival days of the city. An application for renewal shall be made in

substantially the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions that have changed since the last application was filed. (1985 Code, § 5-205, as amended by Ord. #2008-54, Dec. 2008, and Ord. #2010-34, Oct. 2010)

**9-206. Business license required.** Each person, or each firm, corporation or organization issued a permit under this chapter as a peddler, solicitor, street barker or transient merchant shall be required to obtain an appropriate business license before soliciting or making sales. (1985 Code, § 5-206)

**9-207. Restrictions on permit holders in general.** No person while conducting the business or activity of peddler, street barker, solicitor, solicitor for charitable or religious purposes, transient vender, or street barker shall:

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

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

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

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

(5) Enter or attempt to enter in or upon any residential or business premises wherein the authorized owner, occupant or person legally in charge of the premises has in a conspicuous place posted, at the entry to the premises or at the entry to the principal building of the premises, a sign or placard in letters at least one inch high bearing the notice "Peddlers Prohibited," "Solicitors Prohibited," "Peddlers and Solicitors Prohibited," or similar language of the same import, is located.

(6) Enter in or upon any residential premises without prior invitation of the authorized owner, occupant or person legally in charge of the premises between 7:00 P.M. and 8:00 A.M. (1985 Code, § 5-207)

**9-208. Additional restrictions on transient vendors.** A transient vendor shall not:

(1) Advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water, or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth is actually of the character it is advertised, represented or held forth.

(2) Locate temporary premises as the term is defined in this chapter on or in any public street, highway or any other public way or place, or on private property without the written permission of the property owner or other person in authorized control of the property. (1985 Code, § 5-208)

**9-209. Display of permit, business license, etc.** Each peddler, solicitor, and street barker is required to have in his possession a valid permit and business license, and each transient vendor is required to have in his possession a valid permit, business license, and the written permission of any private property owner, or other person in control of the property owned from which he or she is conducting business, while making sales or solicitations, and all shall be required to display the same to any police officer upon demand. Solicitors for charitable and religious purposes shall be required to have in their possession a valid permit. (1985 Code, § 5-209)

**9-210. Revocation of permit.** (1) Causes. The permit issued to any person or to any firm, corporation or organization under this chapter may be revoked by the city manager for any of the following causes:

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

(b) Fraud, misrepresentation, or false or misleading statement made by the permittee in the course of the business or conduct of a peddler, solicitor, solicitor for charitable or religious purposes, transient vendor or street barker.

(c) Any violation of this chapter.

(d) Any other conduct of the permittee that constitutes a threat to the health, safety or general welfare of the citizens of the city.

(2) The notice of revocation. (a) City manager's option. The city manager shall have the option of revoking the permit effective, immediately after notice, or effective after notice and hearing. However, the city manager shall revoke the permit effective immediately only after a written finding of the reasons that to delay the revocation of the permit would represent an intolerable threat to the health, safety or general welfare of the citizens of the city.

(b) Notice if the permit holder is a person. If the permit holder is a person, the city shall make a reasonable effort to personally deliver the notice of revocation effective to the permit holder. If the permit holder cannot be found after such reasonable effort, the notice shall be sent by registered or certified United States Mail to the local residential or business address of the permit holder. If the permit holder has no local residential or business address the notice shall be sent to the permit holder's permanent address.

(c) Notice if the permit holder is a firm, corporation or organization. The personal notice provided for above may be given to the

agent of the firm, corporation or organization, or to any employee or agent of the firm, corporation, or organization; otherwise, the notice procedure prescribed by (b) above shall apply where the permit holder is a firm, corporation or organization.

(d) A transient vendor permit may be revoked if the property on which such vending is occurring has inadequate parking retained on-site for customers (either for an established business and/or for the transient vending activities), as evidenced by the creation of traffic congestion on adjoining streets and rights-of-way.

(e) Contents of notice and hearing. The notice shall set forth the specific grounds for revocation of the permit and shall set a hearing on the revocation on a date falling not less than five (5) nor more than (10) days from the date of the notice.

(3) Hearing on the revocation. At the hearing on the revocation of the permit, the permittee shall be entitled to respond to the charges against him or her and to be represented by counsel at his or her expense. The city manager's decision shall be final. (1985 Code, § 5-210, as amended by Ord. #2012-06, Feb. 2012)

**9-211. Violation and penalty.** In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable according to the general penalty provisions of this municipal code of ordinances. (1985 Code, § 5-211)

**9-212. Suspension of permitting during Foothills Fall Festival.**<sup>1</sup> Transient vendor and peddler permits shall be temporarily suspended during the three (3) days of the annual city sponsored Foothills Fall Festival within the designated Foothills Fall Festival area unless the permit for such purpose has been issued by the Foothills Fall Festival Committee. Designated Fall Festival area shall be as follows:

Designated festival area. The boundaries of the designated festival area are as follows:

(1) Beginning at a point in the intersection of U.S. Hwy. 321 and Court Street and continuing along Court Street in a northwesterly direction to the bridge over Pistol Creek.

(2) Then following the course of Pistol Creek downstream in a northeasterly, northwesterly and southwesterly direction around the Maryville central business district to a point below the dam for the Greenbelt Lake where the creek abuts the right-of-way of McCammon Avenue.

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<sup>1</sup>Municipal code reference  
Title 21: chapter 3.

(3) Then following McCammon Avenue in a southeasterly direction to its intersection with McGhee Street.

(4) Then following McGhee Street in a southwesterly direction to the southwestern property line of Maryville Towers.

(5) Then in a southeasterly direction along the property line of Maryville Towers, continuing in a southeasterly direction along Cates Street, and the extension of the Cates Street right-of-way to U.S. 321.

(6) Then in a northeasterly direction along U.S. Hwy. 321 to Court Street, being the point of beginning. (as added by Ord. #2009-45, Oct. 2009, and replaced by Ord. #2010-29, Sept. 2010)

## CHAPTER 3

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

#### SECTION

- 9-301. Taxicab franchise permit required.
- 9-302. Requirements as to application and hearing.
- 9-303. Liability insurance required.
- 9-304. Revocation or suspension of franchise.
- 9-305. Mechanical condition of vehicles.
- 9-306. Cleanliness of vehicles.
- 9-307. Inspection of vehicles.
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- 9-311. Drivers not to solicit business.
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- 9-313. Drivers to use direct routes.
- 9-314. Taxicabs not to be used for illegal purposes.
- 9-315. Miscellaneous prohibited conduct by drivers.
- 9-316. Transportation of more than one passenger at the same time.
- 9-317. Designation of taxicabs.

**9-301. Taxicab franchise permit required.** It shall be unlawful for any person, firm, or corporation to operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the City of Maryville, without having first obtained a taxicab franchise permit from the municipality. (1985 Code, § 5-401)

**9-302. Requirements as to application and hearing.** (1) No person shall be eligible to apply for a taxicab franchise if he has been convicted of a felony within the last ten (10) years. All applications for a taxicab franchise shall be made upon a regular form provided for that purpose, which application shall include the name and address of the applicant; the name and address of the proposed place of business; the make, model, vehicle identification number (VIN), and license number of all vehicles proposed to be used in the business; method and style of marking of vehicles; experience of the applicant in the transportation of passengers; certification of the mechanical reliability and

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<sup>1</sup>Charter reference

Regulation of taxicabs: art. II, § 1(29).

Municipal code reference

Privilege taxes: title 5.

cleanliness of the vehicles; certification of liability insurance; and such other pertinent information as may be required on said form, which application shall be sworn to by the applicant and verified by the affidavits of two (2) reputable citizens of the State of Tennessee who are acquainted with the applicant, and said application shall be filed with the recorder.

The recorder shall present the application to the city council with the recommendation of the city manager to either grant or refuse a franchise to the applicant. The city council after notice thereof is published one (1) time in a local newspaper at least five (5) days prior to the public hearing, shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise may be heard. In deciding whether or not to grant the franchise, the city council shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such taxicab franchise. Notice and a public hearing shall not be required for a renewal application for a taxicab franchise.

(2) No taxicab franchise permits shall be issued for a longer period than one (1) year. The city council may issue a permit for a shorter or probationary period if, in its discretion, it deems proper.

(3) All franchises heretofore issued by the City of Maryville shall expire on the 15th day of July, 1982; and in order to obtain a renewal taxicab permit on or before the 30th day of June, 1982, a renewal application shall be filed by the holder of each such taxicab permit; and thereafter such taxicab permits and those hereafter issued shall upon timely and proper application be renewed or other appropriate action taken on or before the 15th day of July in each and every year.

(4) The chief of police shall have authority to issue administrative regulations which are not in conflict with this chapter governing the use and operations of taxicabs. (1985 Code, § 5-402)

**9-303. 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 approved by the recorder for all vehicles authorized in the amount of not less than \$100,000.00 for injury to or death of any one person, and \$300,000.00 for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of \$50,000.00 in one occurrence, and a copy of the policy to be on file with the recorder. The insurance policy required by this section shall contain a provision 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 recorder of the municipality. (1985 Code, § 5-403)

**9-304. Revocation or suspension of franchise.** The city council after a public hearing may revoke or suspend any taxi cab franchise for

misrepresentations or false statements made in the application for a taxi cab permit; for traffic violations; for violations of this chapter by the taxi cab owner or any driver; or upon proof of reckless or negligent conduct by a driver in the operation of a taxi cab regulated under this section. (1985 Code, § 5-404, as replaced by Ord. #2009-14, April 2009)

**9-305. Mechanical condition of vehicles.** It shall be unlawful for any person to operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of Maryville 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 the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. All applications for a taxicab permit shall contain a certificate by the owner that the vehicles will be kept in a condition of repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1985 Code, § 5-405)

**9-306. Cleanliness of vehicles.** All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. (1985 Code, § 5-406)

**9-307. Inspection of vehicles.** (1) All taxicabs shall be inspected at least annually to ensure that they comply with the requirements of this chapter. The chief of police will designate the date, time, and by whom the inspections shall be made. The cost of inspections shall be borne by the permit holders.

(2) A police officer is authorized by this chapter to stop a taxicab operating on the streets of Maryville when the mechanical appearance of the vehicle so warrants and to inspect said vehicle for compliance with this chapter. If said officer finds the vehicle to be in noncompliance with this chapter, he shall cite the owner and declare the taxicab inoperable, not to operate on streets of Maryville until evidence of inspection as provided in § 9-307(1) is provided to the chief of police and all defects have been corrected. (1985 Code, § 5-407)

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

(2) No driver's permit shall be issued for a longer period than one (1) year. Said driver's permit will be renewable with the franchise date as provided in § 9-302(3). (1985 Code, § 5-408)

**9-309. Qualifications for driver's permit.** No person shall be issued a taxicab driver's permit unless he complies with the following qualifications:

(1) Makes written application to the recorder on forms provided for that purpose, which are to be reviewed and recommended by the chief of police.

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

(3) Certifies they are of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

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

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

(6) Has not been convicted or pled guilty to:

(a) A felony of any kind; or

(b) A misdemeanor involving drunk driving, driving under the influence of an intoxicant or drug, or any other alcohol related offenses; or

(c) Frequent minor traffic offenses (more than four (4) within the ten (10) years immediately preceding the date of the application.

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

(8) Have a police background investigation including, but not limited to, a criminal record investigation including the taking and recording of fingerprints of each driver and owner.

All credentials required are to be in possession of the driver while operating a taxicab in the City of Maryville. Each permit that is issued shall be charged a fee of eighty-three dollars (\$83.00) which shall include reimbursement for the cost of a police background investigation fee. (1985 Code, § 5-409, as amended by Ord. #2009-14, April 2009)

**9-310. Revocation or suspension of driver's permit.** The city council may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter or when the driver ceases to possess the qualifications as prescribed in § 9-309, or upon recommendation by the chief of police. (1985 Code, § 5-410)

**9-311. Drivers not to solicit business.** All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1985 Code, § 5-411)

**9-312. Parking restricted.** It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1985 Code, § 5-412)

**9-313. Drivers to use direct routes.** Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1985 Code, § 5-413)

**9-314. Taxicabs not to be used for illegal purposes.** No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1985 Code, § 5-414)

**9-315. Miscellaneous prohibited conduct by drivers.** It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1985 Code, § 5-415)

**9-316. Transportation of more than one passenger at the same time.** No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1985 Code, § 5-416)

**9-317. Designation of taxicabs.** Each taxicab shall bear on the outside of each front door an identifying company name, and the word "taxicab" if not part of the company name. The marking shall be of sufficient size to be clearly visible. (1985 Code, § 5-417)

**CHAPTER 4**

**[REPEALED]**

(Ord. #96-21, Sept. 1996, as repealed by Ord. #2008-58, Dec. 2008)

## CHAPTER 5

### BEGGING

#### SECTION

- 9-501. Permit required.
- 9-502. Application for permit.
- 9-503. Issuance of permit.
- 9-504. Purpose of permit.
- 9-505. Police background investigation.

**9-501. Permit required.** It shall be unlawful for any person to beg or solicit alms, money, or gifts of any kind upon the public streets, in public buildings, or in other public places within the City of Maryville without first having obtained a permit. (1985 Code, § 5-601)

**9-502. Application for permit.** Any person desiring to solicit alms or beg in the public streets and public places within the city shall apply to the city recorder for a permit. The application shall be made in writing, on a form furnished by the city, and it shall be signed and sworn to by the applicant. It shall contain the following information:

- (1) Name, age, and address of the applicant;
- (2) Name, age, and address of persons dependent upon the applicant;
- (3) Description of the physical disability, if any, which prevents the applicant from earning a livelihood by gainful employment;
- (4) The amount of relief in money or otherwise which the applicant has received during the preceding twelve (12) month period or is receiving at the time the application is made, and the name of the agency (governmental or private) from which such aid was or is obtained;
- (5) The names of the governmental and private social welfare agencies to which the applicant has applied for aid or assistance; and
- (6) The names and addresses of at least two (2) reputable citizens of the city to whom reference can be made for information as to the character and worthiness of the applicant. (1985 Code, § 5-602)

**9-503. Issuance of permit.** If the applicant is a worthy recipient of charity who cannot properly be taken care of by any public relief or welfare agency, a permit shall be issued to him by the city recorder free of charge.

The permit shall entitle the mendicant to solicit alms in the city for a period of six (6) months and shall expire six (6) months from the date of issuance. Each mendicant shall have his permit in his immediate possession at all times when he is engaged in begging or soliciting alms in the city and shall display same upon demand of any police officer of the city. No permit shall be renewed, but the mendicant shall be allowed, upon the expiration of his permit,

to apply for a new permit in the manner prescribed by this chapter. (1985 Code, § 5-603)

**9-504. Purpose of permit.** The provisions of this chapter shall not apply to authorized agents of regularly constituted charitable organizations soliciting funds or gifts for the benefit of such organizations, nor to the soliciting of funds on behalf of any association, society, club or similar organization from the members thereof or prospective members of such association, society, etc., it being the purpose of this chapter to license and regulate the practice of begging for personal gain. (1985 Code, § 5-604)

**9-505. Police background investigation.** Prior to receiving a permit from the City of Maryville under this section, an applicant must successfully pass a police background investigation and must further pay an eighty dollar (\$80.00) fee to the city in order to reimburse the city of the cost of such investigation. (as added by Ord. #2008-55, Dec. 2008)

## CHAPTER 6

### HELICOPTERS

#### SECTION

- 9-601. Definitions.
- 9-602. Minimum altitude.
- 9-603. Prohibition against landing in unauthorized places; exceptions.
- 9-604. Designation of heliports or helistops.
- 9-605. Zoning ordinances not affected.
- 9-606. Violations.

**9-601. Definitions.** "Helicopter" shall mean any rotocraft which depends principally for its support and motion in the air upon the lift generated by one or more power driven rotors rotating on substantially vertical axis.

"Heliport" shall mean an area of land, water, or structural surface which is designed, used or intended to be used for landing and takeoff of helicopters, and any appurtenant areas, including buildings and other facilities such as refueling, parking, maintenance, and repair facilities. The term "heliport" applies to all such facilities whether said facility is public or private.

"Helistop" shall mean a minimum facility without the logistical support provided at a heliport at which helicopters land and take-off, including the touchdown area. Helistops may be at ground level or elevated on a structure. The term "helistop" applies to all such minimum facilities whether said facility is public or private. (1985 Code, § 5-701)

**9-602. Minimum altitude.** Except when necessary for take-off or landing, it shall be unlawful for any person to operate a helicopter over the corporate limits of the City of Maryville, Tennessee under an altitude of one thousand (1,000) feet above the highest obstacle within a horizontal radius of two thousand (2,000) feet of the helicopter, except if the operation is conducted without hazard to persons or property on the surface. In addition, each person operating a helicopter shall comply with the routes or altitudes specifically prescribed for helicopters seeking to land or travel to points within the city that do not meet the requirements of this chapter, by the chief of police or his designee. (1985 Code, § 5-702, as amended by Ord. #2008-60, Dec. 2008)

**9-603. Prohibition against landing in unauthorized places; exceptions.** No person shall land a helicopter at any place within the city other than at landing facilities duly licensed or approved as required by appropriate statute or regulation by the state and federal aviation agencies, except: in a medical or other emergency; in the conduct of official business of any law enforcement agency; military unit of any branch of the armed forces of the United States of America; or state national guard. (1985 Code, § 5-703)

**9-604. Designation of heliports or helistops.** All heliports or helistops, shall comply with Chapters 4, 5, and 9 where applicable, of the Helicopter Design Guide, dated August 22, 1977, published by the Federal Aviation Administration of the United States Department of Transportation, or any authorized amendment or supplement thereto, as well as any rules and regulations promulgated by the bureau of aeronautics, department of transportation of the state with respect to minimum standards for heliports or helistops. If a heliport or helistop shall be located on a building or other structure, it shall further comply with the building code of the city. (1985 Code, § 5-704)

**9-605. Zoning ordinances not affected.** No provisions of this chapter shall be construed to alter or amend any provisions of the city's zoning ordinance and no law prohibited by terms of said ordinance shall be deemed permitted by the provisions of this chapter. (1985 Code, § 5-705)

**9-606. Violations.** Any person violating any provisions of this chapter shall be deemed guilty of an offense and upon conviction shall pay a penalty of not more than five hundred dollars (\$500.00). Each occurrence shall constitute a separate offense. (1985 Code, § 5-706, modified)

**CHAPTER 7**

**CABLE TELEVISION**

**SECTION**

9-701. To be furnished under franchise.

**9-701. To be furnished under franchise.** Cable television service shall be furnished to the City of Maryville and its inhabitants under franchise as the city council shall grant. The rights, powers, duties and obligations of the City of Maryville and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #1276, and any amendments, in the office of the city recorder.

## CHAPTER 8

### SEXUALLY ORIENTED BUSINESSES

#### SECTION

- 9-801. Title.
- 9-802. Definitions.
- 9-803. Prevention of sexual activity.
- 9-804. Involvement of minors.
- 9-805. Specified criminal activity by operators, employees, entertainers and others.
- 9-806. Prohibited hours of operation.
- 9-807. Duties and responsibilities of operators, entertainers and employees.
- 9-808. Prohibited activities.
- 9-809. Reports.
- 9-810. Inspections.
- 9-811. Applicability of state statutes.
- 9-812. Violations.
- 9-813. Permit requirements and fees.

**9-801. Title.** This chapter shall be known and may be cited as "The Sexually Oriented Business Ordinance." (As added by Ord. #99-30, Sept. 1999)

**9-802. 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) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore, adult novelty store or adult video store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, computer software or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical area" and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of the principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar establishment which regularly features:

(a) Persons who appear in a state of nudity or semi-nude; or

(b) Live performances which are characterized by "specified sexual activities" or by the exposure of any of the "specified anatomical areas," even if partially covered by opaque material or partially or completely covered by translucent material, including swim suits, lingerie, or latex covering; or

(c) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical area."

(4) "Adult entertainment" means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has a significant or substantial portion of such exhibition any actual or simulated performance of "specified sexual activities" or the viewing of "specified anatomical areas."

(5) "Adult motel" means a hotel, motel or similar commercial establishment which:

(a) Offers sleeping room accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than ten hours.

(6) "Adult motion picture theater" means a commercial establishment where, as one of the principal purposes, and for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(7) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear

in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(8) "Codes department" means the department or division of the city which is authorized to enforce building codes and other provisions of this code of ordinances.

(9) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

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

(11) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(12) "Massage parlor" means an establishment or place primarily in the business of providing massage or tanning services for the purposes of sexual stimulation or where one or more of the employees exposes to public view of the patrons within said establishment, at any time, "specified anatomical areas."

(13) "Nude model studio" means a commercial establishment where a person appears semi-nude or in a state of nudity, or displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio as defined herein shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(b) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude or semi-nude model is on the premises at any one time.

(14) "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than

a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(15) "Operator" means a person operating, conducting or maintaining a sexually oriented business or a person who is identified in any report filed with the city as the operator of a sexually oriented business.

(16) "Sauna" means an establishment or place primarily in the business of providing for the purposes of sexual stimulation:

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

(17) "Semi-nude" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

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

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

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (b) For purpose of sexual stimulation, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(20) "Sexually oriented business" includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, sexual encounter center, massage parlor, or sauna, and further means any premises to which patrons or members of the public 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 entertainment, when such is held, conducted, operated or maintained for a profit, direct or indirect.

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

(22) "Specified anatomical areas" means:

- (a) Less than completely and opaquely covered:
  - (i) Human genitals;
  - (ii) Pubic region;

- (iii) Buttocks; and
- (iv) Female breast below a point immediately above the top of the areola, and

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

(23) "Specified criminal activity" means any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; rape; sexual assault; molestation; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of this state or other states or countries; for which:

(a) Less than five years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction or plea is for a misdemeanor offense;

(b) Less than ten years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than ten years have elapsed since the date of conviction or plea of nolo contendere or the date of release from confinement imposed for the last conviction or plea, whichever is the later date, if the convictions or pleas are for two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period;

provided further that the fact that a conviction is being appealed shall have no effect whatsoever on the provisions of this article.

(24) "Specified services" means massage services, private dances, private modeling, or acting as an "escort" as defined in this chapter.

(25) "Specified sexual activities" means:

(a) Human genitals in a state of sexual arousal;

(b) Acts of human masturbation, oral copulation, sexual intercourse or sodomy; or

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts. (As added by Ord. #99-30, Sept. 1999)

**9-803. Prevention of sexual activity.** (1) No person who owns, operates or manages a sexually oriented business shall permit "specified sexual activities," as defined in this chapter, to occur on the premises.

(2) No commercial building, structure, premises or portion thereof shall be designed for or used to promote high-risk sexual conduct.

(3) No person who owns, operates, causes to be operated or manages a sexually oriented business, other than an adult motel, which exhibits on the premises in any one or more viewing rooms or booths of less than 150 square feet of floor space, a film, video cassette, other reproduction or live entertainment which depicts "specified sexual activities" or "specified anatomical areas," shall cause or allow any deviation from the following requirements:

(a) 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. No manager's station may exceed 32 square feet of floor area. If the premises has two or more manager's stations, 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, excluding restrooms, from at least one of the manager's stations. Each such area shall remain unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials. All viewing rooms and booths shall have at least one side open so that the area inside is visible from a manager's station. The view required in this subsection must be by direct line of sight from the manager's station.

(b) No alteration in the configuration or location of a manager's station may be made without the prior approval of the codes department.

(c) At least one employee shall be on duty and situated in each manager's station at all times that any patron is present inside the premises.

(d) No viewing room or booth may be occupied by more than one person at any time.

(e) Each viewing room or booth shall be lighted in such a manner that persons within are visible from a manager's station. The illumination level of each viewing room or booth, when not in use, shall be a minimum of ten foot candles at all times, as measured from the floor. The illumination level of all other portions of the premises open to the public shall be a minimum of ten foot candles at all times.

(f) No patron shall be permitted access to any area which has been designated as an area in which patrons will not be allowed.

(g) Each viewing room or booth shall be totally separated from adjacent viewing rooms and booths and any non-public areas by walls. All such walls shall be solid and extended from the floor to a height of not less than six feet and shall be of light colored, nonporous, non-absorbent, smooth textured and easily cleanable material. No such wall may be constructed of plywood or composition board. No opening or aperture of any kind shall be allowed to exist between viewing rooms or booths. No

person shall make or attempt to make an opening or aperture of any kind between viewing rooms or booths.

(h) All floor coverings in viewing rooms or booths shall be light colored, nonporous, non-absorbent, smooth textured, easily cleanable surfaces, with no rugs or carpeting.

(i) Their premises shall be maintained in a clean and sanitary manner at all times.

(j) No occupant of a viewing room or booth shall be allowed to damage or deface any portion therein or to engage in any type of sexual activity, cause any bodily discharge or litter while inside. (As added by Ord. #99-30, Sept. 1999)

**9-804. Involvement of minors.** An operator of a sexually oriented business is in violation of this chapter if:

(1) The operator is less than 18 years of age.

(2) Any officer, director, partner, stockholder or other individual having a direct or beneficial financial interest in the operator is less than 18 years of age, if the operator is a corporation, partnership or other form of business organization.

(3) Any employee of the sexually oriented business is less than 18 years of age.

(4) Any entertainer at the sexually oriented business is less than 18 years of age. (As added by Ord. #99-30, Sept. 1999)

**9-805. Specified criminal activity by operators, employees, entertainers and others.** (1) No person may own or operate a sexually oriented business within the city if:

(a) He has a record of "specified criminal activity," as defined in this chapter, if the owner or operator is an individual.

(b) Any officer, director, partner or other individual having at least a 10% direct or beneficial financial interest in the operator has a record of "specified criminal activity" as defined in this chapter, if the owner or operator is a corporation, partnership or other form of business organization.

(2) No operator of a sexually oriented business may allow any employee who has a record of "specified criminal activity," as defined in this chapter, to work on the premises of the business.

(3) No operator of a sexually oriented business may allow any entertainer who has a record of "specified criminal activity," as defined in this chapter, to perform on the premises of the business.

(4) No operator or employee of a sexually oriented business may knowingly allow any "specified criminal activity" to occur on the premises of the business.

(5) No operator or employee of a sexually oriented business may allow any patron or customer who has carried out any "specified criminal activity" on the premises of the business to reenter the premises.

(6) The police department shall investigate the criminal record of any person identified pursuant to § 9-809(4) as well as any employee of a sexually oriented business or any entertainer performing in a sexually oriented business. No person shall have an interest as identified in § 9-809(4) unless such person has satisfactorily completed such a criminal background investigation nor shall any person be an employee or entertainer at a sexually oriented business unless such person has submitted to and successfully passed a police background investigation. Each police background investigation shall be subject to a charge of eighty dollars (\$80.00) which shall be paid by the owner/operator of the sexually oriented business or by the employee or performer. The obligation is on the permit holder to advise the city of any new person for whom a background check is required under this section. (As added by Ord. #99-30, Sept. 1999, and amended by Ord. #2008-56, Dec. 2008)

**9-806. Prohibited hours of operations.** No sexually oriented business, except for an adult motel, shall be open between the hours of 11:00 P.M. and 8:00 A.M. No adult motel may allow any guest to check into a room between the hours of 11:00 P.M. and 8:00 A.M. (As added by Ord. #99-30, Sept. 1999)

**9-807. Duties and responsibilities of operators, entertainers and employees.** (1) The operator of each sexually oriented business shall maintain a register of all employees, showing the name, all aliases, home address, age, birth date, sex, weight, color of hair and eyes, telephone number, social security numbers, driver license or their state identification number and date of issuance, date of employment and termination, and duties of each employee. The above information for each employee shall be maintained on the premises during his or her employment and for a period of three years following termination.

(2) The operator shall make such information available for inspection immediately upon request by the city manager or his authorized representative or by the police department or codes department. Alternatively, if the city manager or his authorized representative, the police department or the codes department request that copies of any such information be delivered to them, the operator shall have such copies delivered within three days of the request.

(3) An operator shall be responsible for the conduct of all employees on the premises of the sexually oriented business and any act or omission of any employee constituting a violation of the provisions of this part shall be deemed the act of omission of the operator.

(4) There shall be posted and conspicuously displayed in the common areas of each sexually oriented business a list of any and all entertainment and

services provided on the premises. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the city manager or his authorized representative or by the police department or codes department.

(5) No operator or employee of a sexually oriented business shall allow any person under the age of 18 years on the premises of a sexually oriented business.

(6) A sign shall be conspicuously displayed in the common area of the premises of each sexually oriented business, and shall read as follows:

This sexually oriented business is regulated by the City of Maryville, Tennessee. Employees, entertainers and customers are not permitted to engage in any type of sexual contact.

(7) Operators of sexually oriented businesses that provide "specified services," as defined in this chapter, for customers or patrons shall comply with the following requirements:

(a) For each "specified service," such customers or patrons shall be provided with written receipts. Operators shall keep copies of such receipts for at least three years, showing:

- (i) "Specified service" provided.
- (ii) Cost of "specified service."
- (iii) Date and time of service provided.
- (iv) Name of person providing the "specified service."
- (v) Method of payment for service.

(b) Copies of all published advertisements for the business shall be kept for at least three years.

(c) Copies of the receipts and advertisements required under this section shall be made available immediately upon request by the city manager or his authorized representative or by the police department or codes department.

(8) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that the line of sight between the manager's station(s) and each viewing room or booth remains unobstructed by doors, curtains, partitions, walls, merchandise, display racks or other materials.

(9) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that the illumination required by this article is maintained at all times during business hours.

(10) It shall be the duty of the operator and all employees on the premises of a sexually oriented business to ensure that no openings of any kind exist between viewing rooms or booths.

(11) The operator or his/her agent shall, during each business day, regularly inspect the walls of all viewing rooms and booths to determine if any openings or holes exist. If such openings exist, it is the duty of the operator to immediately repair the damage. No patron shall be permitted access to a

viewing room or booth where such an opening exists. It shall be the duty of the operator and all employees on the premises to ensure that such rooms or booths are unoccupied by patrons until the opening is repaired and covered. (As added by Ord. #99-30, Sept. 1999)

**9-808. Prohibited activities.** (1) No operator, entertainer or employee of a sexually oriented business shall perform or offer to perform any specified sexual activities on the premises of the business, or allow or encourage any person on the premises to perform or participate in any specified sexual activities.

(2) No entertainer, employee, or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performances shall only occur upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest entertainer, employee, and/or customer.

(3) No business shall advertise that it offers or provides any entertainment or service which would fall under the definitions of "sexual conduct," "sexual stimulation" or "specified sexual activities" as defined in this chapter.

(4) No operator or employee shall serve or allow to be served or consumed any intoxicating liquor or malt beverage on the premises of a sexually oriented business.

(5) No operator or employee shall knowingly allow possession, use or sale of controlled substances on the premises of a sexually oriented business.

(6) The possession of weapons by any patron or customer on the premises of a sexually oriented business shall be prohibited. Notice of such prohibition shall be posted on the premises. No operator or employee shall knowingly allow a patron or customer on the premises of a sexually oriented business to have a weapon in his possession.

(7) No hotel, motel or similar commercial establishment may knowingly allow a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours. (As added by Ord. #99-30, Sept. 1999)

**9-809. Reports.** Any person operating or desiring to operate a sexually oriented business shall file a report with the codes department at least 30 days prior to the opening of the business and no later than November 1 of each year thereafter. The report shall be filed in triplicate with and dated by the codes department upon receipt. One copy of the dated report shall be returned to the operator and one copy shall be promptly provided to the police department. The report shall be upon a form provided by the codes department and shall include the following information, which shall be sworn by the operator to be true and correct under oath:

- (1) The name under which the sexually oriented business is or will be operated.
- (2) The location and all telephone numbers for the sexually oriented business.
- (3) The type of sexually oriented business which is being or will be operated, using the terms included in the definition of "sexually oriented business" provided in this chapter, if applicable, and a complete description of all types of entertainment and services provided or to be provided by the business.
- (4) If the operator is an individual, or for any individual who owns or will own at least a 10% direct or beneficial interest in the business:
  - (a) Legal name and any other names or aliases used by the individual.
  - (b) Mailing address and residential address and telephone number.
  - (c) Business address and telephone number.
  - (d) A recent photograph of the individual.
  - (e) Age, date and place of birth.
  - (f) Height, weight, and hair and eye color.
  - (g) Date, issuing state and number of the individual's driver's license or other state identification card information.
  - (h) Social security number.
  - (i) Proof that the individual is at least 18 years of age.
  - (j) The business, occupation or employment of the individual for five years immediately preceding the date of the report.
- (5) If the operator is a partnership:
  - (a) The partnership's complete name
  - (b) The names of all partners and the information required above for all individuals who own or will own at least 10% direct beneficial interest in the business.
  - (c) Whether the partnership is general or limited.
  - (d) A copy of any printed partnership agreement.
- (6) If the operator is a corporation:
  - (a) The corporation's complete name, address and telephone number.
  - (b) The date and state of incorporation.
  - (c) The corporation's federal tax identification number.
  - (d) Evidence that the corporation is in good standing under the laws of the state of incorporation.
  - (e) The names and capacity of all officers, directors and principal stockholders and the information required above for all individuals who own or will own at least a 10% direct or beneficial interest in the business.

(f) The name and address of the registered corporate agent for service of process.

(7) The sexually oriented business or similar business history of the operator and of each individual listed under § 9-809(4) above, including:

(a) The name and location of each sexually oriented business or similar business currently or previously owned or operated by such operator or individual.

(b) If the operator or individual is or was a partner, officer, or director or holds or held at least a 10% direct or beneficial interest in a partnership, corporation or other business entity which operates or operated or is or was majority owner of any sexually oriented business or similar business, the name and location of each such business and the owning or operating business entity.

(c) Whether such operator or individual, has had any license or permit issued to a sexually oriented business or similar business denied, suspended or revoked.

(d) The name and location of each sexually oriented business or similar business for which the license or permit was denied, suspended or revoked, and the dates and reasons for each such suspension or revocation.

(8) Whether the operator or any of the operator's officers or directors or any individual listed under § 9-809(4) above has a record of any "specified criminal activity" as defined in this chapter, and, if so, the "specified criminal activity" or activities involved and the date, place and jurisdiction of each.

(9) If the premises are leased or being purchased under contract, a copy of such lease or contract.

(10) A sketch or diagram showing the configuration of the premises, including the total amount of floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. The codes department may waive this requirement if the report adopts a sketch or diagram that was previously submitted and the operator certifies that the configuration of the premises has not been altered since it was prepared. This requirement does not excuse the operator from compliance with all other applicable requirements for approval of building plans.

(11) For the initial report, a current certificate and straight-line drawing prepared within 30 days prior to the filing of the report by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property of the business filing the report; the boundary lines of any residential zoning district within 1,000 feet of said property; and the property lines of any parcel which includes an established religious facility, child care or educational facility, public park or recreation area, family entertainment business, liquor store or residence

within 1,000 feet of said property. For purposes of this section, a use shall be considered existing or established if it is in existence at the time a report is submitted.

(12) A signed statement by the operator that the operator is familiar with the provisions of this chapter and is and will continue to be in compliance therewith, provided that if the operator is not an individual, such statement shall be signed by each individual who owns or will own at least a 10% direct or beneficial interest in the operator.

(13) Any other reasonable available information determined by the city manager, codes department or police department to be necessary in determining whether the operator and the sexually oriented business meet the requirements of this chapter. (As added by Ord. #99-30, Sept. 1999)

**9-810. Inspections.** In order to effectuate the provisions of this chapter, the police department, codes department, city manager and/or his authorized representatives are empowered to:

(1) Conduct investigations of the premises of any sexually oriented business or any business believed by any of them to be a sexually oriented business at any time such business is occupied or open for business.

(2) Inspect all licenses and records of any sexually oriented business and its operators and employees for compliance with this chapter at any time such business is occupied or open for business.

(3) Conduct investigation of persons engaged or believed to be engaged in the operation of any sexually oriented business. (As added by Ord. #99-30, Sept. 1999)

**9-811. Applicability of state statutes.** The provisions of this chapter are not intended to supersede any obligations or requirements, including licensing requirements, imposed by state statute and shall be in addition thereto. (As added by Ord. #99-30, Sept. 1999)

**9-812. Violations.** (1) Each of the following acts and omissions shall be considered a civil offense against the city:

(a) Failure to file any report required under this chapter at the time required or submittal of false or misleading information or omission of any material facts in any report required under this chapter.

(b) Any operator, entertainer, or any employee of the operator, violates any provision of this chapter.

(c) Any operator, employee or entertainer denies access to the police department, codes department, fire department, city manager or his authorized representatives to any portion of the premises of the sexually oriented business at any time it is open for business.

(d) Any operator fails to maintain the premises of a sexually oriented business in a clean, sanitary and safe condition.

(2) Upon a second or subsequent violation by an operator, entertainer or employee of a sexually oriented business, of any part of this chapter, or any state statute regarding nudity, sexually oriented businesses or adult entertainment, such business shall be deemed a nuisance and shall also be subject to an order of closure, and/or to cease and desist, by chancery court action seeking injunctive relief to enforce the provisions of this chapter, provided that such second or subsequent violation occurs after a judgment or conviction or plea of nolo contendere has been obtained for the previous such violation. (As added by Ord. #99-30, Sept. 1999)

**9-813. Permit requirements and fees.** Any person wishing to operate a sexually oriented business as defined in this section must first obtain a permit from the City of Maryville. Such permit shall be provided only upon satisfactory compliance with all of the provisions of this chapter. A permit fee of two hundred fifty dollars (\$250.00) shall be provided along with an application for a permit. (as added by Ord. #2008-56, Dec. 2008)

**CHAPTER 9**

**CABLE TELEVISION**

**SECTION**

9-901. Minimum depth of underground cable.

**9-901. Minimum depth of underground cable.** The minimum depth of burial of underground television cable within the public right-of-way shall be 18 inches. (As added by Ord. #2000-22, June 2000)

## CHAPTER 10

### CARNIVALS AND FAIRS

#### SECTION

- 9-1001. Definitions
- 9-1002. Carnival or fair permit and certificate of use.
- 9-1003. Use of city property.
- 9-1004. Application for carnival or fair permit.
- 9-1005. Application fee.
- 9-1006. Permit fee.
- 9-1007. Transient vendor business license required.
- 9-1008. Posting of required permits etc.
- 9-1009. Review and consideration of applications and appeal process.
- 9-1010. Bond required.
- 9-1011. Inspections.
- 9-1012. Daily inspection reports required.
- 9-1013. Sanitation requirements.
- 9-1014. Water service for carnival or fair.
- 9-1015. Storm water inlet protection required.
- 9-1016. Utility deposit required; return of deposit.
- 9-1017. Proof of contact of health department where food is served.
- 9-1018. Police presence required at carnival or fair's expense.
- 9-1019. Cease operation.
- 9-1020. Duration of permit.
- 9-1021. Public liability insurance.
- 9-1022. Other permits.
- 9-1023. Exemptions.
- 9-1024. Penalty.

**9-1001. Definitions.** As used in this chapter the following terms shall be defined as stated herein:

(1) "Amusement device." Any equipment or piece of equipment, appliance or combination thereof designed or intended to entertain or amuse for a fee.

(2) "Amusement ride." Any amusement device or combination of devices, which carries passengers along, around or over a fixed or restricted course for the purpose of amusement and for a fee.

(3) "Carnival." An enterprise offering amusement or entertainment to the public in, upon, or by means of amusement devices or rides or concession booths.

(4) "Concession booth." A building, structure, or enclosure located at a fair or carnival from which amusements or games are offered to the public for a fee.

(5) "Fair." An enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of amusement rides or devices or concession booths.

(6) "Operator." A person, or the agent of a person, who owns or controls the operation of an amusement ride, device or concession booth.

(7) "Restraining device." A safety belt, harness, chain, bar or other device, which affords actual physical support, retention or restraint of a passenger of an amusement ride or device. (as added by Ord. #2003-11, May 2003)

**9-1002. Carnival or fair permit and certificate of use.** No person shall conduct or operate or allow to be conducted or operated in any place owned, leased, managed or controlled by him, any carnival or fair in the city without first obtaining and maintaining:

(1) A valid carnival or fair permit as provided for in this chapter; and

(2) A valid certificate of use regarding the carnival or fair which shall issue from the building inspector after all the conditions, requirements and inspections provided for in this chapter as prerequisites to the issuance of a certificate of use have been met prior to the opening of the carnival or fair to the public; and

(3) All other approvals, permits and licenses required by this chapter and other applicable laws and regulations. (as added by Ord. #2003-11, May 2003)

**9-1003. Use of city property.** No person shall conduct or allow to be conducted on city streets, right of way, parks or other city property a carnival or fair without first obtaining the written permission of the city manager or his authorized representative. (as added by Ord. #2003-11, May 2003)

**9-1004. Application for carnival or fair permit.** Applications for a carnival or fair permit shall be made at least thirty (30) calendar days and no more than ninety (90) calendar days prior to the proposed opening date of the carnival or fair. Applications for a carnival or fair permit shall be made to the city recorder by the person or entity, which will conduct or perform the carnival or fair. Any limitations or representations set forth in the application including but not limited to proposed hours of use, shall be binding on the applicant and shall constitute a condition of the carnival or fair permit's issuance, the breach of which may result in the nullification of the carnival or fair permit. Each carnival or fair permit shall include:

(1) The name, complete permanent home address, and telephone number of the person requesting permit.

(2) The name and address of the organization or group sponsoring the event. A copy of the organization's articles of incorporation, partnership

agreement, charter, or other organizing documents, if applicable, shall be attached to the application.

(3) The name, address and telephone number of the person who will act as contact person for the event and be responsible for the conduct thereof.

(4) The purpose of the proposed carnival or fair.

(5) Location of event, including written permission of any private property owner, or other person in control of the property owned at which the applicant proposes to hold the carnival or fair.

(6) The date or dates the carnival or fair is proposed to be conducted and the hours it will commence and terminate each day.

(7) The specific assembly and disbursal locations, and the specific route plan to be used, if applicable, if any part of the carnival or fair will be assembled in one place and then moved to another.

(8) A list of every amusement device or ride with descriptive name and identification number and a certificate from the owner and/or manager in charge of the carnival or fair that each operator of each such amusement device or ride has appropriate and sufficient training and knowledge of how to properly and safely operate each amusement device or ride he or she will operate at the fair or carnival.

(9) A positive certification from an independent testing agency certifying that each amusement ride or device has passed a load test in accordance with manufacturer's specifications within one (1) year of the date of the carnival or fair. Modifications to the original design (such as restraining devices not found on the original design) must be reflected in the load test or reviewed and approved by a licensed engineer. Such engineer's approval report shall be in writing and in sufficient detail as to indicate the extent of the modification(s), shall contain a written description and/or illustration of the modification approved and shall set forth the engineer's seal and current contact information.

(10) A list of names of all persons who will work at or be employed at the carnival or fair when it is proposed to be in operation in the city including each such person's driver's license number and state of issuance or social security number;

(11) A State of Tennessee Business License if appropriate.

(12) Such other information as the city may deem reasonably necessary;  
and

(13) A certification that the statements in the application are true, accurate and complete.

(14) A copy of a valid government issued photo identification card shall be provided for each person who is listed as working or being employed at a carnival or fair. (as added by Ord. #2003-11, May 2003, and amended by Ord. #2008-57, Dec. 2008)

**9-1005. Application fee.** A non-refundable application fee of five hundred dollars (\$500.00) shall be submitted with the application for a carnival or fair permit. (as added by Ord. #2003-11, May 2003)

**9-1006. Permit fee.** There will be a fee of fifty dollars (\$50.00) for the issuance of the carnival or fair permit payable prior to the issuance of the permit. (as added by Ord. #2003-11, May 2003)

**9-1007. Transient vendor business license required.** Each applicant who is issued a carnival or fair permit under this chapter shall further be required to obtain prior to the opening of the carnival or fair a transient vendor business license from both the City of Maryville and from the Blount County Court Clerk. (as added by Ord. #2003-11, May 2003)

**9-1008. Posting of required permits, etc.** The following valid and current documents shall be posted in a prominent location easily visible to the public at each carnival or fair operated in the city during all times when the fair or carnival is open for business:

- (1) Carnival or fair permit.
- (2) City transient vendor business license.
- (3) Blount County transient vendor business license.
- (4) Certificate of use by appropriate city official. (as added by Ord. #2003-11, May 2003)

**9-1009. Review and consideration of applications and appeal process.** The city recorder or designated representative shall initially review the application for a carnival or fair permit to ensure that all required information has been included. The city recorder, with the advice of appropriate affected city operating departments, will then consider the application based on the following criteria:

- (1) Appropriateness of the location of the proposed event to the surrounding community.
- (2) Date and time of proposed event.
- (3) The length of the proposed event.
- (4) The impact on residential and commercial neighbors.
- (5) Other events previously scheduled in the city on the same dates.
- (6) The amount and availability of city personnel necessary to regulate and monitor the proposed event.
- (7) The interference with peak transportation periods, movement of emergency vehicles, or schedules of various construction projects.
- (8) Concerns about problems with parking, sanitation and dispersal routes at the proposed event at the time and location contemplated by the application.
- (9) Adequacy of the application and the information provided therein.

(10) Any other relevant information pertaining to the health, safety and general welfare of the citizens of and visitors to the city.

(11) Past experience with the applicant or those associated with the applicant.

Upon completion of this analysis, and within a reasonable time, the city recorder will determine whether or not the carnival or fair permit shall be issued to the applicant and shall advise the applicant of the decision. A permit may be used with or without additional conditions imposed by the city recorder. If the application for a carnival or fair permit is denied, the city recorder will provide the applicant an explanation in writing as to the reasons for the denial. The applicant has the right to appeal in writing the conditions placed on the issuance of a permit or the denial of a permit to the city manager's office within ten (10) business days of the issuance of the conditional permit or of the date of the denial letter, as applicable. (as added by Ord. #2003-11, May 2003)

**9-1010. Bond required.** Prior to the issuance of a certificate of use, a cash bond shall be provided to the City of Maryville in the amount of \$1,000.00 for each carnival or fair on the condition that the operators and owners of the carnival or fair shall comply fully with the provisions of this chapter and the statutes of the State of Tennessee during the setting up, operation of, and closing down of the applicable carnival or fair. If all conditions are met to the satisfaction of the city, the bond will be refunded within thirty (30) days of the expiration of the carnival or fair permit. If the city determines that all conditions have not been met, it may retain all or part of the bond as appropriate to compensate it for the costs incurred due to the lack of compliance. If costs incurred exceed bond amount, the carnival or fair will be billed the additional amount. (as added by Ord. #2003-11, May 2003)

**9-1011. Inspections.** The following city employees must perform and a carnival or fair must pass the following inspections before a certificate of use may issue. Animals in any way connected to the carnival or fair must be properly restrained to allow inspectors to perform their work.

(1) Electrical inspector. (a) Inspection of extension cords for wear and splices. Cords are required to have locking-type receptacles and plugs.

(b) Emergency cut-offs on carnival rides.

(2) Building inspector. (a) Inspection of blocking and scotching of wheels and leveling arms.

(b) Check for guards on belts and other moveable devices.

(c) Walk-through inspection for obvious safety violations (no mechanical inspections).

(d) Any other matter which comes to the attention of the building inspector which causes him concern for the health, safety, and welfare of any person regarding the carnival or fair operation.

- (3) Fire inspector. (a) Inspection for fire extinguishers in a number to be determined by the Maryville Fire Department.
- (b) Inspection for smoke detectors in sleeping quarters, in generator trailers, and on all carnival rides.
- (c) Inspection of location and accessibility of items for fire and life safety.
- (4) Water quality control inspector (as is set forth below if the sanitary sewer of the city is used by or in connection with the carnival or fair). (as added by Ord. #2003-11, May 2003)

**9-1012. Daily inspection reports required.** Daily inspection reports in a form provided by the building inspector shall be submitted each day a carnival or fair is opened to the public. Such daily inspection reports shall state that the owner or manager in charge of the carnival or fair has inspected each amusement device or ride for safety concerns in advance of opening the carnival or fair to the public that day and that each such ride passed such inspection. A daily inspection report shall be provided to the building inspector and/or his agents prior to the operation of the carnival or fair each day for that day. (as added by Ord. #2003-11, May 2003)

**9-1013. Sanitation requirements.** Temporary restroom facilities must be provided at a carnival or fair in a number to be determined by city code enforcement with a minimum of four (4) separate facilities in addition to the existing city sanitary system. No dumping of holding tanks into the city storm sewer system is allowed. Any discharge of gray-water in connection with a carnival or fair, including dumping, must flow directly to the city sanitary sewer system and meet the following requirements:

- (1) Connections as per Southern Building Code and the Rules, Regulations, Rates and Policies of the City of Maryville Water Quality Control Department, the Maryville Sewer Use Ordinance and any other applicable regulations.
- (2) All discharge must meet the standards of the pretreatment ordinance and the sewer use ordinance, including but not limited to the prohibition on the discharge of chemicals and cooking grease into the sanitary sewer system.
- (3) Connections must be such as to not allow rainwater inflow.
- (4) If authorized, connections may be made at a sanitary sewer manhole using a special manhole cover drilled to accept a 4-inch PVC elbow and riser or standard dump station connection subject to inspection. A manhole may be provided by WQC department upon request.
- (5) Connections may be made at other approved locations subject to review and inspection.
- (6) The appropriate city personnel must inspect all connections prior to use. (as added by Ord. #2003-11, May 2003)

**9-1014. Water service for carnival or fair.** If water is to be used at carnival or fair, a responsible party for the carnival or fair must sign up for temporary water service with the City of Maryville Water Department and must pay for consumption billed at current City of Maryville Water Department rates before leaving the city and must operate pursuant to the following regulations:

(1) Connections must be in compliance with the Southern Building Code and the Rules, Regulations, Rates and Policies of the City of Maryville Water Quality Control Department, and any other applicable regulations:

(2) Connection must be through a meter;

(3) Connection must include a backflow prevention device at the connection point;

(4) The appropriate city personnel must inspect all connections. (as added by Ord. #2003-11, May 2003)

**9-1015. Storm water inlet protection required.** A responsible party for a permitted carnival or fair is required to protect any storm water inlets from pollution that may impair water quality or system function where such storm water inlets are impacted or potentially impacted by carnival or fair operations. No equipment known to leak or to deposit oil, grease, or any other pollutant may be used without making adequate provision for total, weatherproof collection and approved disposal of the pollutant. (as added by Ord. #2003-11, May 2003)

**9-1016. Utility deposit required; return of deposit.** Use of the water or sewer system of the city for or in connection with a carnival or fair, a temporary utility deposit in the amount of \$1,000.00 will be required. Upon

(1) Return of all meters and equipment to the city, and

(2) Passing a post-use inspection of the sanitary sewer system involved with the carnival or fair's use, and

(3) Full payment of any outstanding water and sewer use billing, the deposit will be refunded within 30 days of the last of these conditions to occur. (as added by Ord. #2003-11, May 2003)

**9-1017. Proof of contact of health department where food is served.** Prior to receiving a certificate of use, a responsible person for the carnival or fair must show in writing that the Blount County Health Department has received notice if any food is contemplated to be prepared and served at the carnival or fair so that appropriate inspections can be made. (as added by Ord. #2003-11, May 2003)

**9-1018. Police presence required at carnival or fair's expense.** At least one officer of the Maryville Police Department shall be on duty at the carnival or fair during the operating hours of the carnival or fair. The cost of such officer shall be borne in advance by the carnival or fair and proof of

compliance with this part shall be provided prior to the issuance of a certificate of use. (as added by Ord. #2003-11, May 2003)

**9-1019. Cease operation.** (1) The city manager or his designated representative is authorized to revoke a carnival or fair permit and order such carnival or fair to immediately cease its operation due to any violation of this chapter or if the city manager deems the continuing operation of the carnival or fair to be a hazard to the health, safety or general welfare of the citizens of or visitors to Maryville. The city manager or the building inspector further has the authority to cease operation of a particular amusement device or ride if it is found to be particularly unsafe or hazardous without shutting down the entire carnival or fair.

(2) The city manager or the chief of police further has the authority to cease the operation of the carnival or fair and revoke the carnival or fair permit in the event that a person is found employed at or working at the carnival or fair where such person has not been listed under the requirements of § 9-1004(10) and where proper identification has not been provided for each such individual under § 9-1004(14). (as added by Ord. #2003-11, May 2003, and amended by Ord. #2008-57, Dec. 2008)

**9-1020. Duration of permit.** A carnival or fair permit issued under the authority of this chapter shall expire no more than fourteen (14) days from the commencement of the carnival or fair and shall be non-transferable and non-assignable. (as added by Ord. #2003-11, May 2003)

**9-1021. Public liability insurance.** Before a certificate of use is granted to allow the opening of the carnival or fair, the carnival or fair operators shall furnish evidence that they have in force at the time such a carnival or fair is to operate in the city the following coverages, which would apply to the carnival or fair and its operations:

(1) Worker's compensation insurance sufficient to comply with the State of Tennessee statutes;

(2) Comprehensive general liability insurance, by an insurance company licensed to do business in this state, providing coverage of \$2,000,000.00 combined single limit per occurrence. Such coverage shall include independent contractors, products liability and personal injury, and the city shall be an additional named insured;

(3) Comprehensive automobile liability providing for a single limit for \$500,000.00 per occurrence and aggregate for owned, not owned, and hired motor vehicles. The city shall be an additional named insured; and

(4) Certificates of insurance in a form and with insurance companies acceptable to the city shall be filed with the city recorder prior to issuance of the certificate of use. (as added by Ord. #2003-11, May 2003)

**9-1022. Other permits.** The carnival or fair permit shall be in addition to any permits additional permits or licenses required by state and federal law or local ordinance. (as added by Ord. #2003-11, May 2003)

**9-1023. Exemptions.** Special events conducted solely by or in conjunction with the City of Maryville, the City of Maryville Schools and the Blount County, Maryville and Alcoa Parks and Recreation Commission shall be exempt from requirements of this chapter. (as added by Ord. #2003-11, May 2003)

**9-1024. Penalty.** In addition to the ceasing of operations of a carnival or fair as set forth above, the violation of this chapter is punishable under the general penalty clause of the City of Maryville. (as added by Ord. #2003-11, May 2003)

## CHAPTER 11

### MOBILE FOOD VENDORS AND FOOD TRUCKS

#### SECTION

- 9-1101. Definitions.
- 9-1102. Requirements.
- 9-1103. Sales on streets and public property.
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- 9-1105. Permit.
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- 9-1107. Permit and decal.
- 9-1108. General requirements of mobile food vendor vehicles.
- 9-1109. Inspections.
- 9-1110. Exemptions.
- 9-1111. Penalties.

**9-1101. Definitions.** (1) "Mobile food vendor" is defined as any person selling food and/or drink from a mobile vehicle, including a food truck, food trailer and ice cream truck.

(2) "Mobile food vendor vehicle" is defined as a vehicle that returns daily to its base of operations and is used either in the preparation or sale of food or drink products, or both.

(3) "Food truck" is defined as an enclosed motor vehicle equipped with facilities for preparing, cooking and selling various types of food and/or drink products other than exclusively ice cream and related frozen products.

(4) "Food trailer" is defined as a detached trailer that is equipped with facilities for preparation, cooking and selling various types of food and/or drink products.

(5) "Ice cream truck" is defined as a motor vehicle containing a commercial freezer from which a vendor sells only frozen, pre-packaged food products such as ice cream, frozen yogurt, frozen custard, flavored frozen water and similar frozen items. (as added by Ord. #2016-13, June 2016)

**9-1102. Requirements.** (1) Licenses and permits. It shall be unlawful for any person to engage in business as a mobile food vendor in the City of Maryville without first obtaining a business license and a mobile food vendor's license with a decal evidencing such license. Any permits, licenses, and certifications required by the Blount County Department of Health and/or State of Tennessee for operation of the business are also required. City of Maryville transient vendor licenses will not be required for those business owners residing in the State of Tennessee and/or businesses based in Tennessee. State transient vendor licenses will be required for owners of businesses residing outside of Tennessee and/or businesses based outside of Tennessee as required by the

State of Tennessee. Upon being granted a mobile food vendor license, a mobile food vendor must comply with the rules and regulations herein.

(2) Insurance. At the time of the application for a mobile food vendor license, the mobile food vendor must provide proof of valid automobile liability insurance in an amount required by law for operation of the applicable mobile food vendor vehicle(s). Failure to maintain this insurance when acting as a mobile food vendor will result in immediate revocation of the mobile food vendor license.

(3) Litter receptacles. Each licensed mobile food vendor must maintain for customer use a litter receptacle of sufficient size to accept the litter being generated by the sales from the vendor's mobile food vehicle at the point of sales. The receptacle must be maintained in such a manner as to preclude an overflow of refuse. Each mobile food vendor shall pick up litter which is associated with the vendor's sale in the vicinity of the vendor's mobile food vehicle prior to departing a sales location. A pattern of leaving excessive litter caused by product packaging shall be basis for suspension or revocation of the mobile food vendor license.

(4) What can be sold. Mobile food vendors shall be limited to selling edibles and hot and cold beverages containing no alcohol. The sale of non-food or drink items from the mobile food vendor vehicle shall be limited to hats, t-shirts and sweat shirts displaying the mobile food vendor logo and/or branding.

(5) No seating and tables. There shall be no benches, tables, chairs or other furniture which may be used for eating or sitting provided by or associated with a mobile food vendor vehicle.

(6) Fire extinguishers and fire suppression systems. All food trucks and food trailers must be equipped with a fire extinguisher that is certified annually by a licensed company. Additionally, food trucks and food trailers that produce grease laden vapors (i.e. units with deep fat fryers or flat-top griddles) must have a fire suppression system certified bi-annually by a licensed company.

(7) Placement. Mobile food vendor vehicles shall not obstruct or impede pedestrian or vehicular traffic, access to driveways, and sight distance for drivers.

(8) Pedestrian only. Mobile food vendor vehicles shall serve pedestrians only; drive-through or drive-in services are hereby prohibited.

(9) Health regulations. All mobile food vendors and their mobile food vendor vehicles must be in compliance with all applicable health regulations for Blount County and the State of Tennessee relating to food safety and preparation.

(10) Noises. Other than ice cream trucks being able to play a song associated with its business at a reasonable level of sound, no mobile food vendors shall sound any device which produces an offensive or loud noise to attract customers, and mobile food vendors shall not use a public address system on the vehicle to broadcast and advertise products.

(11) No parking in fire lanes. No mobile food vendors shall park in fire lanes.

(12) Signs. Signs which are permanently affixed to the mobile food vendor vehicle shall extend no more than six inches (6") from the vehicle. Except as stated herein, all signs shall be attached or painted on the mobile food vendor vehicle. Electronic signs are prohibited as are signs that flash, reflect motion pictures, emit smoke or vapor, or produce any rotation, motion or movement. Each food truck or food trailer is permitted one sandwich board type sign located within ten feet (10') of the applicable food truck or food trailer for advertisement purposes while the food truck or food trailer is open for business. Such sandwich board sign shall be no more than forty-eight inches (48") high and contain no more than seven (7) square feet.

(13) Electricity. Any mobile food vendor vehicle shall not be attached to or use any temporary electrical pole and shall be ineligible for any permanent electrical service from the City of Maryville Electric Department. (as added by Ord. #2016-13, June 2016, and amended by Ord. #2016-19, Aug. 2016 and Ord. #2017-28, July 2017)

**9-1103. Sales on streets and public property.** (1) Ice cream trucks. The hours of operation for ice cream trucks are between 9:00 A.M. and sunset as stated for that day for the Maryville area by the National Weather Service. Ice cream trucks may vend on public streets so long as they remain mobile and only make stops of ten (10) minutes or less at one (1) location.

(2) Food trucks and food trailers. Except as set forth herein, food trucks and food trailers are prohibited from selling food on any public street, sidewalk, alley, trail or right-of-way or any city owned or controlled property, including, but not limited to, parks, unless approved by the city as part as a city permitted special event. The above prohibition will not apply to the parking lot and related areas at the Blount County Justice Center nor to the parking lot and related areas surrounding the Blount County Courthouse if permission is obtained by the County Mayor for placement of food trucks or food trailers on such property. All mobile food vendors must comply with all rules, regulations and requirements related to any city permitted special event, including, but not limited to, provision as to where mobile food vendors will be located, how long the mobile food vendors can be present at the location, and how many and which food trucks can participate in the city permitted special event. (as added by Ord. #2016-13, June 2016, and amended by Ord. #2017-28, July 2017)

**9-1104. Mobile food vendors on private property.** All mobile food vendors shall be subject to the following regulations on private property:

(1) Existing restaurants. Other than an ice cream truck, no mobile food vendor shall operate within fifty feet (50') of a door intended for regular public use of a lawfully established eating establishment that is open for business (other than another mobile food vendor vehicle) unless the mobile food vendor

provides documentation which is signed by the restaurant owner or operator that the restaurant owner or operator has no objection to a closer proximity.

(2) Location. Mobile food vendors will be permitted on private property in the city according to the terms and conditions herein. A mobile food vendor under this section must have written permission from a private property owner for setting up for each location. The mobile food vendor must provide a copy of such written permission upon demand to city officials. No mobile food vendor on private property shall do business or operate within fifty feet (50') of any property line of any lot used for residential purposes.

(3) Hours of operation. No mobile food vendor shall operate outside the hours of 8:00 A.M. to 10:00 P.M. At the end of each business day's operation, the mobile food vendor shall remove from the property the mobile food vendor vehicle and all materials associated with the business, unless participating in a city permitted special event that allows the overnight parking of mobile food vendor vehicles during the special event. (as added by Ord. #2016-13, June 2016, and amended by Ord. #2017-28, July 2017)

**9-1105. Permit.** Applicants for a permit under this section shall file with the city recorder a sworn application in writing on a form to be furnished by the city recorder. Submission of false or misleading information will result in revocation of the permit and a ban on receiving future permits. The application shall provide the following:

- (1) The name and contact information of the applicant.
- (2) The applicant's permanent street address, mailing address and email address.
- (3) The applicant's telephone numbers including a cell phone number if available.
- (4) A brief description of the nature of the business and of the goods to be sold.
- (5) A copy of the vehicle registration for any mobile food vendor vehicle and proof of automobile insurance for the mobile food vendor vehicle.
- (6) A copy of the business license, proof of State of Tennessee sales tax registration, and any health department license or certification required by Blount County Department of Health or the State of Tennessee.
- (7) State of Tennessee and City of Maryville transient vendor licenses will be required for businesses based outside of the State of Tennessee and/or for owners of businesses residing outside the State of Tennessee.
- (8) Color photograph(s) of the mobile food vendor vehicle's interior and exterior.
- (9) Permission to obtain a background check of owner(s) of mobile food vendor vehicles. The city reserves the right to reject an applicant if he or she (or in the case of an LLC or corporation, its owner(s)),
  - (a) Is a registered sex offender;
  - (b) Has been convicted of a felony in the past ten years;

(c) Has a chronic history of an unreasonable number and kind of moving vehicle violations as determined by the chief of police; or

(d) Presents an unreasonable public health and safety risk based on past criminal history as determined by the chief of police.

The applicant owner must also acknowledge and affirm his, her or its duty as hereby required by this code to perform background checks on each of his employees or agents operating the mobile food vendor vehicle permitted herein. The applicant must acknowledge and affirm that he, she or it will not allow an employee or agent to work in the city as a mobile food vendor if such employee or agent is a registered sex offender or if he or she has been convicted of a felony within the past ten years.

(10) Payment of an application fee of one hundred twenty dollars (\$120.00) which will be prorated by month for the first year of the permit at a rate of ten dollars (\$10.00) per month of operation. No refunds will be issued. Any day in the month where the permit is in place will require payment for that entire month.

(11) Such other relevant information as may be reasonably requested by the city after review of submission of the material in order to assure full review of the information needed to assess the impact of the proposed operation on the health, safety and well-being of the public. (as added by Ord. #2016-13, June 2016, and amended by Ord. #2016-19, Aug. 2016)

**9-1106. Permit renewal.** A permit issued under this section shall be valid for the remainder of the calendar year from the date of issuance and shall be renewed on an annual basis on or by January 1 of each year upon proper application and payment of the permit fee of an additional one hundred twenty dollars (\$120.00) per year. A permit shall be valid for only one (1) mobile food vendor vehicle. Each operator and/or applicant shall file additional application and pay an additional permit fee for each additional mobile food vendor vehicle. No refunds will be issued for renewed permits and no renewed permits for partial years will be issued. (as added by Ord. #2016-13, June 2016)

**9-1107. Permit and decal.** Each applicant upon being issued a permit under this section shall also be issued a decal which the mobile food vendor must display on the right front windshield's lower corner on each mobile food vendor vehicle or at such other location on the vehicle as the city in writing shall approve. (as added by Ord. #2016-13, June 2016)

**9-1108. General requirements of mobile food vendor vehicles.** All exterior bodywork and mechanical equipment of a mobile food vendor vehicle shall be maintained in good condition, free of excessive wear, tear or damage. All exterior paint work shall be maintained in good condition, free of substantial scratches, chips, rust, dents and abrasions. All windshield and window glass of mobile food vendor vehicles shall be maintained free of cracks, scratches, pitting,

abrasions and other conditions that may cause a hazard or reduce clarity of vision. (as added by Ord. #2016-13, June 2016)

**9-1109. Inspections.** (1) Department of health primary. Nothing in this section shall be construed as limiting or replacing the role of the Tennessee Department of Health which has the primary task of inspecting mobile food vendor vehicles.

(2) Entry. The city police and other officials shall have the right at any time after displaying proper identification to enter into or upon any mobile food vendor vehicle for the purpose of ascertaining whether or not any provisions of this section are being violated and for general inspection purposes.

(3) Shut down. Any mobile food vendor vehicle which is found after any city inspection to be unsafe or not compliant with this section may be directed to be out of operation until the deficiency is corrected. (as added by Ord. #2016-13, June 2016)

**9-1110. Exemptions.** Mobile food vendors that are part of and participating in a city permitted carnival will not be required to comply with the requirements of this chapter as far as participation in such carnival is concerned.

Mobile food vendors that are part of and participating in a city officially approved special event will not be required to comply with the requirements of this chapter as far as participation in such city officially approved special event is concerned.

A mobile food vendor may participate in only one (1) city officially approved special event per calendar year under this exemption without having to obtain a permit and otherwise comply with this chapter. This section will not apply to recurring events such as community events and farmers markets. The exemption will apply, however, to events such as or similar to Summer on Broadway, Smoky Mountain Scottish Festival and Games, and Taste of Blount. (as added by Ord. #2016-13, June 2016, and amended by Ord. #2017-13, May 2017)

**9-1111. Penalties.** Violations of this chapter are subject to the general penalty clause for the City of Maryville. The city may also suspend or revoke a permit and decal issued hereunder for violation of this chapter. (as added by Ord. #2016-13, June 2016)