

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

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CHAPTER 1

PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS¹

SECTION

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9-101. Definitions. Whenever used in this chapter, unless the context requires otherwise, the following definitions shall apply:

(1) "City manager" means the city manager of this city or the city manager's duly authorized designee.

(2) "Merchandise" means and includes all personal property of whatever kind, whether tangible or intangible, including but not limited to, goods, wares, produce, insurance, stocks and bonds.

¹Charter reference

Privilege taxes: title 5, chapter 2.

(3) "Non-profit organization" means and includes any non-profit organization as defined by and qualified under the rules and regulations of the Internal Revenue Service.

(4) "Permittee" means the person holding a valid permit issued under this chapter.

(5) "Solicit" means and includes offering merchandise for sale, barter or exchange, whether for present or future delivery, or in any manner disposing of personal property by peddling or hawking the same.

(6) "Solicitor" means and includes peddler, huckster or itinerant merchant and all persons of any age who solicit, attempt to solicit, sell, barter, exchange or offer to sell, barter or exchange, and includes person soliciting on behalf of a nonprofit organization. (1969 Code, § 18-1, as replaced by Ord. #22-2012, Oct. 2012)

9-102. Permit required. It shall be unlawful for any person to solicit the sale of merchandise or the furnishing of a service within the city without first obtaining a permit therefor in compliance with the provisions of this chapter. Furthermore, no person shall solicit contributions or the sale of merchandise for a nonprofit organization unless the organization first obtains a permit therefor in compliance with this chapter. (1969 Code, § 18-2, as replaced by Ord. #22-2012, Oct. 2012)

9-103. Application for permit (except non-profit organizations).

(1) Applicants for a permit under this chapter must file with the utility business office a sworn written application, on a form provided by the city, which shall at a minimum contain the following:

(a) Name and physical description of the applicant. In the case of a non-profit organization, a list of all proposed solicitors, if such a list is available.

(b) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.

(c) Personal identity information as may be required to conduct a thorough background check on the individual.

(d) A brief description of the nature of the business and any goods to be sold.

(e) If applicant is employed, the name, address and telephone number of the employer, together with credentials therefrom establishing the exact relationship and authority of the employee to act for the employer. If the person is acting as an agent, the name, address, and telephone number of the principal being represented shall be provided along with credentials establishing the relationship and the authority of the agent to act for the principal.

(f) The length of time for which the right to do business is desired.

(g) The names of at least two (2) reputable local property or business owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.

(h) A statement as to whether or not the applicant has been convicted of any felony, misdemeanor or ordinance violation other than traffic violations; the nature of the offense or violation; and the punishment or penalty assessed therefor, the date and location where such offense or violation occurred and other pertinent details thereof.

(i) Proof of possession of any permit or license which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the permitting requirements of this chapter.

(j) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(k) The applicant's consent for the city to conduct a background investigation, including a review of the applicant's criminal and civil records.

(2) At the time of application, the applicant must cooperate in the recording of a digital photograph which will be placed on file and be used in the printing of the solicitor's permit, should such permit be approved.

(3) Failure to provide all requested information, providing false information, or failure to authorize a background investigation will result in the denial of the application. (1969 Code, § 18-3, as replaced by Ord. #22-2012, Oct. 2012)

9-104. Application for non-profit permit. (1) Applicants for a permit under this chapter for non-profit purposes must file with the utility business office a sworn written application, on a form provided by the city, which shall at a minimum contain the following:

(a) Name of the non-profit organization represented, its principal address or place of business, tax exempt certification number and the nature of the beneficiaries of its efforts.

(b) The name, contact information and complete permanent home address and local address of a local representative of the organization who will be responsible for all canvassers; in the case of such not being local, the local address from which solicitations will be made,

along with such personal identity information as may be required to conduct a thorough background check on that individual.

(c) A brief description of the nature of the solicitation.

(d) The length of time for which the permit is desired.

(e) The names, addresses and contact information of all canvassers to be involved in the effort and a statement by the local representative that all canvassers are personally known to be of good moral character and not to have been convicted of any felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, theft, or any violent act against persons or property, or fraud, deceit or misrepresentation, or moral turpitude within the last ten (10) years.

(f) The applicant's consent for the city to conduct a background investigation, including a review of the applicant's criminal and civil records.

(2) Failure to provide all requested information, providing false information, or failure to authorize a background investigation will result in the denial of the application. (1969 Code, § 18-4, as replaced by Ord. #22-2012, Oct. 2012)

9-105. Fees. At the time of application, the applicant shall pay a non-refundable fee to cover the cost of processing the application and investigating the facts stated therein. The permit fee shall be established by resolution of city council. (1969 Code, § 18-5, as replaced by Ord. #22-2012, Oct. 2012)

9-106. Investigation of applicant; issuance or denial of permit.

(1) Upon receipt of the application and payment of the fee, the utility business office shall cause an investigation to be made of the applicant's moral reputation or business responsibility and conduct a background investigation of the applicant. If the applicant's application is complete and the investigation is satisfactory, a permit shall be issued to the applicant. The permit shall be prepared by the city and shall include a current photo of the permittee. A list of all permits issued shall be kept for two (2) years from the date of issue.

(2) The city may deny the application for any of the following reasons:

(a) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;

(b) An investigation reveals the applicant falsified information on the application;

(c) The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, theft, or any violent act against persons or property within the last ten (10) years;

(d) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the last ten (10) years;

(e) The applicant has been convicted of a crime of moral turpitude within the last ten (10) years;

(f) There is no proof of authority for the applicant to serve as an agent of the principal; or

(g) The applicant has been denied a permit under this chapter within the last year, unless the applicant can and does show to the satisfaction of the city that the reasons for such earlier denial no longer exist.

(3) The reason(s) for denial of a permit shall be noted on the application and the applicant shall be notified that his or her application has been denied and that no permit will be issued. The notice shall also inform the applicant of the appeal process. Notice shall be mailed to the applicant's address as listed on the application. (1969 Code, § 18-16, as replaced by Ord. #22-2012, Oct. 2012)

9-107. Bond. All solicitors requiring cash deposits shall furnish to the city a bond in the amount of ten (10) times the solicitor's highest deposit amount and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with the permittee that the merchandise purchased will be delivered according to the representations of the permittee. Action on the bond may be brought by any person aggrieved and for whose benefit the bond is given, but the surety may by paying the face amount of the bond pursuant to court order to the clerk of court in which the suit is commenced be relieved without costs of all further liability. (1969 Code, § 18-17, as replaced by Ord. #22-2012, Oct. 2012)

9-108. Proper conduct during solicitation. (1) Hours of solicitation. Solicitation is allowed between the hours of 9:00 A.M. and 9:00 P.M. from April through October and between the hours of 9:00 A.M. and 7:30 P.M. from November through March, it being the intent that door-to-door solicitation occur during daylight hours for safety and visibility of the solicitors and at times when citizens feel secure in their homes to receive unexpected visitors. Solicitation outside of these hours is a violation of this chapter.

(2) Not transferrable. It is a violation of this chapter a permit issued under this chapter to be used at any time by any person or organization other than the one to whom it is issued.

(3) Display of permit. Every person issued a permit under this chapter shall clearly display said permit on his or her person at all times while solicitation is in process and allow inspection of said permit by the occupant of the private premises upon which the person is soliciting. Further, every person

issued a permit under this chapter shall produce the same at the request of any police officer or city employee. Failure to adhere to these requirements is a violation of this chapter.

(4) No solicitation signs. It is a violation of this chapter and deemed to be trespass for any person, whether permitted or not, while conducting the business of a peddler or solicitor to fail to comply with posted signs such as "no solicitors," "no peddlers," "no solicitation," and signs of similar meaning when posted on private property unless such person is or has been invited upon the premises by the occupant thereof.

(5) Trespass. It is a violation of this chapter and deemed to be trespass for any permittee acting under this chapter to fail to promptly leave the private premises of any person who requests, asks or directs the permittee to leave.

(6) Aggressive manner. It is a violation of this chapter for permittees to act in any manner which could be reasonably considered aggressive, coercive, threatening, harassing or abusive, such as using obscene or profane language, intimidation, or unwelcome physical contact.

(7) False or misleading. It is a violation of this chapter for permittees to knowingly make a false or misleading statement or representation in the course of soliciting. This includes, but is not limited to, stating that a donation is needed to meet a specific need when there are already sufficient funds to meet that need or stating that a donation is needed to meet a need that does not exist.

(8) Shouting, using horns, bells, etc. No person holding a permit under this chapter, or any person on his or her behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell.

(9) Use of streets. No person holding a permit under this chapter shall have any exclusive right to any location near the public streets or be permitted a stationary location thereon, nor shall any such person be permitted to operate in a congested area where such operation might impede or inconvenience the public use of streets, nor shall any such person be permitted to accept orders for goods or sell directly from a vehicle of any kind while standing in a public street. For the purpose of this section the judgment of the city manager, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1969 Code, § 18-18, as replaced by Ord. #22-2012, Oct. 2012)

9-109. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed, without cost, if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter.

Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year, except permits issued to non-profit organizations, which shall be issued for two (2) years. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1969 Code, § 18-19, as replaced by Ord. #22-2012, Oct. 2012)

9-110. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the city manager, after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application (that was not revealed during the initial investigation), or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.

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

(c) Conviction of any crime, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, fraud, theft, deceit, misrepresentation or any violent act against persons or property within the last ten (10) years that was not revealed during the initial investigation or that occurred after the date of application;

(d) Conviction of any crime involving moral turpitude within the last ten (10) years that was not revealed during the initial investigation or that occurred after the date of application; or

(e) Any violation of this chapter.

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

(3) When reasonably necessary in the public interest, the city manager may suspend a permit issued under this chapter pending the revocation hearing.

(4) No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the date of revocation. (1969 Code, § 18-20, as replaced by Ord. #22-2012, Oct. 2012)

9-111. Appeal. (1) Any person aggrieved by the action or decision to deny, suspend or revoke a permit applied for under the provisions of this chapter

shall have the right to appeal such action or decision to the city manager within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application.

(2) An appeal shall be taken by filing with the city manager a written statement setting forth the grounds for the appeal.

(3) A hearing shall be set not later than twenty (20) days from the date of receipt of the appellant's written statement.

(4) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.

(5) The decision of the city manager on the appeal shall be final and binding on all parties concerned. (1969 Code, § 18-21, as replaced by Ord. #22-2012, Oct. 2012)

9-112. Exemptions. The provisions of this chapter shall not be applicable to persons selling at wholesale to dealers, newsboys, bona fide merchants who merely deliver goods in the regular course of business, sellers responding to a prior invitation by the owner or occupant of a residence, or to bona fide candidates, campaign workers and political committees campaigning on behalf of candidates or on ballot issues and persons soliciting signatures of registered voters on petitions to be submitted to any governmental agency. The provisions of this chapter are also not applicable to students enrolled in grades K through 12 while engaged in fundraising activities, or any persons under the age of eighteen (18) except when they are agents of a for-profit organization.

Any other person or organization claiming to be legally exempt from the regulations set forth in this chapter, or from the payment of a fee, shall cite to the utility business office the statute or other legal authority under which exemption is claimed and shall present proof of qualification for such an exemption. (1969 Code, § 18-22, as replaced by Ord. #22-2012, Oct. 2012)

9-113. Violations. Any person violating the provisions of this chapter shall, upon conviction, pay a fine not to exceed fifty dollars (\$50.00) for each offense. Every day such violation continues shall constitute a separate offense. (1969 Code, § 18-23, as replaced by Ord. #22-2012, Oct. 2012)

CHAPTER 2

TAXICABS¹--IN GENERAL

SECTION

- 9-201. Definitions.
- 9-202. General powers and duties of city manager.
- 9-203. Evidence of title to be filed with city clerk.
- 9-204. Monthly reports and fees required of operators.
- 9-205. Maintenance, signage and inspection.
- 9-206. Taximeters.
- 9-207. Rates.
- 9-208. Unlawful to fail to pay fare.
- 9-209. Taxicab stands.
- 9-210. Indiscriminate solicitation of passengers prohibited.
- 9-211. Solicitation of utility passengers prohibited.
- 9-212. Accident reports.

9-201. Definitions. (1) "ASE-certified mechanic." ASE-certified mechanic means a mechanic certified by the National Institute for Automotive Service Excellence or similar nationally recognized mechanical certification.

(2) "City manager." City manager means the city manager or the city manager's duly authorized designee.

(3) "Taxicab." Taxicab means any motor vehicle used for the purpose of transporting persons within the city for hire and not operating upon an established route or between fixed termini. Taxicab does not include vehicles engaged exclusively in sight-seeing operations or used for weddings, funerals, or similar operations. Further, taxicab does not include vehicles operated or controlled by transportation network companies as that termed in defined in Tennessee Code Annotated, § 55-12-141. (1969 Code, § 23-1, as replaced by Ord. #1-2017, Jan. 2017)

9-202. General powers and duties of city manager. The city manager shall have exclusive jurisdiction of the licensing and regulations of taxicabs within the city and shall administer the provisions of chapters 2, 3, and 4 of this title and in accordance therewith shall be authorized to promulgate rules and regulations for the operation of taxicabs in Oak Ridge. (1969 Code, § 23-2)

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

9-203. Evidence of title to be filed with city clerk. A certificate of title for each taxicab for which a permit is issued under chapters 2, 3, and 4 of this title, or lawful evidence thereof, shall be filed with the city clerk. (1969 Code, § 23-3)

9-204. Monthly reports and fees required of operators. Each person holding a taxicab permit under the provisions of chapters 2, 3, and 4 of this title shall file a monthly report, on a form provided by the city, which shall show the number of taxicabs operated during the preceding month, the number in operation, the number out of service for repairs or otherwise. With such report, such person shall pay the sum of five dollars (\$5.00) for each taxicab in operation, which payments shall be made monthly. All funds derived from such payments may be used for the purpose of enforcing the provisions of chapters 2, 3, and 4 of this title. Payments shall be made to the city with the monthly report, as provided herein, and such funds shall be deposited in the city treasury. (1969 Code, § 23-4)

9-205. Maintenance, signage and inspection. (1) Maintenance. All taxicabs operated within the city shall be safely conditioned for the transportation of passengers and shall be kept in a clean and sanitary condition in interior and exterior. All taxicabs shall be receive annual maintenance by an ASE-certified mechanic. Documentation of this annual evaluation shall be submitted to the city manager and kept on file in the city clerk's office. It shall be unlawful for any person to operate a taxicab in the city limits unless such taxicab is equipped in accordance with the requirements of the state motor vehicle law.

(2) Signage. All taxicabs shall have conspicuously posted inside the cab a sign reading as follows:

City ordinance requires that the interior and exterior of this cab be kept clean. If you think the cleanliness of this cab needs improvement, please mention this to the cab driver or call the police department (865-425-4399) and give the number of the cab.

(3) Inspection. The city manager shall cause to be made periodic inspection of such vehicles to determine their fitness for public use. It shall be grounds for the revocation of any taxicab permit for the holder thereof to fail to comply with this section. (1969 Code, § 23-5, as replaced by Ord. #1-2017, Jan. 2017)

9-206. Taximeters. No person shall operate any taxicab in the city, nor shall a permit for a taxicab be issued under chapters 2, 3, and 4 of this title, unless the taxicab is equipped with a standard taximeter, in good and workable condition, and designed to mechanically and accurately measure distance traveled, record the time the vehicle is waiting, and upon which there shall be indicated, by figures, the fare charged. All taximeters shall be so placed that the

face thereof, where the fare is registered, will be plainly visible to passengers within the vehicle. After sundown, the face of every taximeter shall be illuminated by a suitable light and so arranged as to reflect the fare indicated thereon. (1969 Code, § 23-6)

9-207. Rates. No operator of any taxicab shall charge rates in excess of the amounts set by resolution of city council. (1969 Code, § 23-7, as amended by Ord. #4-00, Feb. 2000, and replaced by Ord. #10-05, Oct. 2005)

9-208. Unlawful to fail to pay fare. It shall be unlawful for any person to refuse to pay the legal fare charged by the operator of any taxicab in accordance with the provisions of chapters 2, 3, and 4 of this title, and any person who shall fail or refuse to pay such fare shall be guilty of a misdemeanor. (1969 Code, § 23-7.1)

9-209. Taxicab stands. The city manager shall, upon issuing a permit under chapters 2, 3, and 4 of this title, approve or designate, at his or her discretion, the taxicab stands at which taxicabs covered by the permit shall be required to stand while awaiting patronage, as well as call boxes appertaining thereto. The city manager is hereby authorized to limit the number of stands and to so regulate their location as to not unreasonably interfere with the right of adjacent landowners or tenants to ingress or egress. The space so allotted to any permittee shall not be used or trespassed upon by any other operator of taxicabs within the city. (1969 Code, § 23-8)

9-210. Indiscriminate solicitation of passengers prohibited. No operator of a taxicab shall indiscriminately solicit passengers upon the streets or other public ways of the city. (1969 Code, § 23-9)

9-211. Solicitation of utility passengers prohibited. No operator of any taxicab shall, in any manner whatever, directly or indirectly, solicit the patronage of those who have assembled for the purpose of becoming passengers upon any public utility authorized to transport passengers in the city. (1969 Code, § 23-10)

9-212. Accident reports. All accidents arising from or in connection with the operation of taxicabs which result in death or injury to any person, result in damage to any vehicle, or result in damage to any property in an amount exceeding four hundred dollars (\$400.00) shall be reported within seventy-two (72) hours from the time of the occurrence to the city manager on a form to be furnished by the city manager. Any taxicab damaged in an accident may not be returned to service until a safety inspection has been completed by an ASE-certified mechanic and has been approved for safe operation by said mechanic, with documentation of such delivered to the city manager. A taxicab

damaged in an accident, but still operable per the safety inspection without placing the driver or passengers at risk, must be repaired within two (2) weeks of the accident or removed from operation until repaired.

A taxicab driver operating a taxicab at the time of an accident involving bodily injury or death is required to report for a drug screen within twenty-four (24) hours from the time of occurrence at a testing site designated by the city manager. Failure to report for such a screen may result in revocation of the taxicab driver's license. (1969 Code, § 23-11, as replaced by Ord. #1-2017, Jan. 2017)

CHAPTER 3

TAXICABS--PERMITS

SECTION

- 9-301. Permit required.
- 9-302. Application.
- 9-303. Hearing prerequisite to issuance.
- 9-304. Insurance required of applicant.
- 9-305. Issuance; determination of convenience and necessity.
- 9-306. Form.
- 9-307. Increasing number of taxicabs after issuance.
- 9-308. Transfer or assignment.
- 9-309. Revocation.

9-301. Permit required. No person shall operate or cause to be operated any taxicab in the city without having first applied for and received a permit therefor from the city manager. (1969 Code, § 23-22)

9-302. Application. An application for a permit under this chapter shall be made with the city manager, on forms prescribed by him or her, shall be in writing, verified by affidavit of the applicant or his or her duly authorized agent, and shall contain the following information:

- (1) Full name and address of the applicant and the applicant's company; if a partnership, the name of each partner, and if a corporation, the names and addresses of the executive officers thereof.
- (2) Previous experience of the applicant in the taxicab business.
- (3) The number of taxicabs desired to be operated.
- (4) The seating capacity and make of each automobile to be used as a taxicab.
- (5) The state license number of each vehicle.
- (6) The model of each vehicle, by year, and the time it has been used as a taxicab.
- (7) The rate of fare proposed to be charged.
- (8) The name, address and telephone number of two (2) character references.
- (9) A description of the color scheme on the taxicabs. (1969 Code, § 23-28)

9-303. Hearing prerequisite to issuance. A permit shall be granted under this chapter only after a public hearing by the city manager after ten (10) days' notice by publication in the official newspaper within the city. (1969 Code, § 23-24)

9-304. Insurance required of applicant. No permit shall be granted for the operation of taxicabs until the owner thereof shall have first filed with the city manager for each and every vehicle so employed, a certificate of public liability insurance, with memorandum copies of policies, with some public liability insurance company authorized to do business in the State of Tennessee, and approved by the city manager and city attorney. Policies covered by the certificates shall be issued to the person owning the taxicab, and shall provide bodily injury, the limits of which shall be in such amounts for single injury, injury to more than one (1) person in any one (1) accident, and property damage as is required by the Tennessee Financial Responsibility Law for motor vehicles. (1969 Code, § 23-25)

9-305. Issuance; determination of convenience and necessity. Except as otherwise provided in chapters 2, 3, and 4 of this title, the city manager may issue any taxicab permit which the public welfare, convenience and necessity may require. In making such determination, the city manager shall consider whether the demands of the public require such proposed or additional taxicab service, which consideration shall involve traffic increase factors and the need for increased parking space upon the streets of the city, and the city manager may consider whether the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such proposed or additional permit. (1969 Code, § 23-26)

9-306. Form. The permit required by this chapter, when issued, shall be in the form of a certificate of convenience and necessity. (1969 Code, § 23-27)

9-307. Increasing number of taxicabs after issuance. No person granted a permit under this chapter shall increase the number of taxicabs allowed or enlarge upon the authority granted him or her by the permit. Every increase in the number of taxicabs operated shall be contingent upon the approval of the city manager in the same manner and to the same extent as is provided in this chapter for the original issuance of permits. (1969 Code, § 23-28)

9-308. Transfer or assignment. No permit granted under this chapter shall be assigned, transferred or conveyed to any other person; provided, that the city manager may, after a hearing, when the facts and circumstances justify it, permit a transfer of the original certificates where the city manager finds that the public convenience and necessity will be better served by such transfer. (1969 Code, § 23-29)

9-309. Revocation. The city manager shall have full authority to revoke a permit issued under this chapter, after notice and public hearing in accord with rules and regulations promulgated pursuant to § 1-105 of this code, where

Change 1, December 18, 2006

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the provisions of this chapter are violated by the holder of the permit. Such revocation shall be in addition to any penalty imposed for such violation. (1969 Code, § 23-30)

CHAPTER 4

TAXICABS–DRIVER'S LICENSE

SECTION

- 9-401. Required.
- 9-402. Application.
- 9-403. Qualifications of applicant.
- 9-404. Fee.
- 9-405. Issuance; form; contents.
- 9-406. Display.
- 9-407. Not transferrable.
- 9-408. Expiration and renewal.
- 9-409. Suspension or revocation.

9-401. Required. It shall be unlawful for any person to drive a taxicab within the city unless he or she has a current license so to do issued in accord with this chapter. (1969 Code, § 23-41)

9-402. Application. Application for a taxicab driver's license shall be on a form provided by the city manager. Such application shall give the applicant's full name; present address; place of residence for three (3) years next preceding; age; height; color of eyes and hair; places of previous employment; whether he or she has ever been convicted of a felony or misdemeanor; Tennessee driver's license number with the appropriate state-required endorsement for drivers of vehicles for hire; whether previously licensed as a driver or chauffeur, and if so, whether his or her license has ever been suspended or revoked. Such application shall be signed and sworn to by the applicant, submitted to the city manager, and then kept by the city clerk as part of the applicant's file. The application provided for herein shall have attached thereto, on a form provided by the city manager, affidavits of the applicant's good character from two (2) reputable persons who have known him or her personally during the three (3) years next preceding the date of the application. (1969 Code, § 23-42, as replaced by Ord. #1-2017, Jan. 2017)

9-403. Qualifications of applicant. Each applicant for a taxicab driver's license shall:

- (1) Be of the age of eighteen (18) years or more.
- (2) Be of sound physique, with good eyesight, and not subject to any ailment of mind or body which might render him or her unfit for the safe operation of a taxicab.
- (3) Be able to read and write the English language.
- (4) Be clean in dress and person and not addicted to the use of drugs or intoxicating liquors.

(5) Be of good moral character as evidenced by the affidavits referred to in § 9-402.

(6) Not have been convicted within the five (5) years preceding the date of the application of any felony, or any offense involving shoplifting, theft, larceny, driving under the influence of alcohol or drugs, possession, sale or use of marijuana or controlled substances, reckless driving or an offense of a similar nature, violation of §§ 11-501, 11-701, 11-702, or 11-704 of the Code of Ordinances, City of Oak Ridge, Tennessee. (1969 Code, § 23-43)

9-404. Fee. The fee for a taxicab driver's license shall be four dollars (\$4.00). (1969 Code, § 23-44)

9-405. Issuance; form; contents. Upon compliance with the provisions of this chapter and payment of the prescribed fee, the city manager shall issue to the applicant a taxicab driver's license, which shall be in the form of an identification card, bearing the photograph of the person to whom issued. (1969 Code, § 23-45)

9-406. Display. At all times while a licensed taxicab driver is engaged in driving or operating any taxicab within the city limits, the license issued under this chapter shall be displayed in a conspicuous place in the taxicab. (1969 Code, § 23-46)

9-407. Not transferrable. A license issued under this chapter shall not be transferrable and shall not be used by other than the person to whom issued. (1969 Code, § 23-47)

9-408. Expiration and renewal. The license of any taxicab driver issued under this chapter shall expire one (1) year from the date issued, and shall be renewed for the ensuing year on or before such date upon payment of a fee of two dollars (\$2.00). (1969 Code, § 23-48)

9-409. Suspension or revocation. Upon the conviction of any licensed taxicab driver for the violation of a city, state, or federal law involving the use, sale, or distribution of alcoholic beverages, or of any felony, or of any offense involving shoplifting, larceny, or theft, or of driving under the influence of alcohol or drugs, or of possession, sale, or use of marijuana or a controlled substance, or of reckless driving or offense of a similar nature, or upon a conviction of a violation of §§ 11-701, 11-702, 11-501, or 11-704 of the Code of Ordinances, City of Oak Ridge, Tennessee, or upon conviction of three (3) traffic violations other than those hereinabove included provided those hereinabove included traffic offenses may be included as one or more of the three (3) violations, within a one-year period, the city manager may suspend or revoke the license of such driver. In the case of a suspension, it shall be for not less

than ten (10) days nor more than thirty (30) days, the period to be fixed by the city manager. In cases of suspension, the city manager shall take up from the licensee his or her license identification card, and shall return the same at the expiration of the period of suspension. In case of revocation, such identification card shall be returned to the city manager. It shall be unlawful for any driver to refuse to surrender his or her identification card to the city manager in cases of suspension, or demand therefor, or to drive or operate any taxicab during such period of suspension or revocation. (1969 Code, § 23-49)

CHAPTER 5

RODEOS, CIRCUSES AND OTHER ITINERANT SHOWS¹

SECTION

- 9-501. Permit required; application for permit.
- 9-502. General conditions to issuance of permit.
- 9-503. Permit fees.
- 9-504. Occupancy of structure prohibited prior to issuance of permit.
- 9-505. Liability insurance and cash bond.
- 9-506. Inspection of premises.
- 9-507. Revocation of permit.

9-501. Permit required; application for permit. No person shall conduct, erect, or cause to be conducted or erected any rodeo, wild west show, menagerie, circus, carnival, or similar type of itinerant show within the city without a permit so to do issued by the city manager. Application for such permit shall be in writing and filed with the city manager at least fourteen (14) days prior to the opening date of any performance. The application shall state clearly the following:

- (1) Whether any open flame is intended to be used within the structure, and if so, what precautions are to be taken to render it safe.
- (2) The name of the person, firm, or corporation which will use the structure.
- (3) The location of the principal place of business of such person, firm, or corporation.
- (4) The names and addresses of the officers of such firm or corporation.
- (5) The length of time the structure is intended to be used for the purpose applied for.
- (6) The hours of the day or night during which such structure is intended to be used as a place of assembly.
- (7) The formula of the solution which is to be used to flameproof the structure, or a copy of a certificate showing the date of the last flameproof treatment and by whom performed.
- (8) What provisions have been made for sanitary facilities for persons using the premises on which such structure is to be erected or is maintained.
- (9) The name or names of the sponsoring local person or group.
- (10) That only safety film motion pictures will be used, where motion pictures are to be shown.

¹Municipal code reference

Privilege taxes: title 5, chapter 2.

(11) That the proposed operation is in compliance with the zoning ordinance, as amended.

(12) Such other relevant information as the city manager may require.

Such application shall include the names of the owners, their addresses, and the name or names of the manager or managerial personnel of the operation. (1969 Code, § 5-11)

9-502. General conditions to issuance of permit. The city manager shall not issue a permit required by this chapter, unless the applicant has made provision for:

(1) Adequate aisles, seats, platforms, and poles.

(2) Sufficient exits, well marked and properly lighted.

(3) Lighted and unobstructed passageways to areas leading away from the structure, so that fire-fighting equipment and personnel may operate easily.

(4) Removal, before the structure is to be used as a place of public assembly, of any pole, rope or other obstruction in any aisle or exit.

(5) Inspection before the opening of the show by the city electrical inspector to ascertain if any defects exist in the wiring and provision made for immediate correction of any defects which may be found.

(6) Sufficient first-aid fire appliances to be distributed throughout the structure with operating personnel familiar with the operation of such equipment available and assigned during the use of such structure as a place of assembly.

(7) Sufficient "NO SMOKING" signs visible at all times.

(8) An employee at each entrance to require the extinguishing of all cigarettes, cigars and other smoking materials.

(9) Announcement at frequent intervals to the persons in the assembly of the fact that smoking within the structure is prohibited.

(10) Proper safeguarding of any open flame or its use prohibited.

(11) The prohibition of fireworks.

(12) The clearing of straw, dry grass, sawdust and any combustible trash from the structure before it is opened to the public and arrangements made to keep the areas where debris may be expected to accumulate well serviced, especially under open seats.

(13) Proper facilities for calling the city fire department.

(14) Adequate police and fire personnel and equipment, at the applicant's expense, for the control of persons in the assembly to prevent overcrowding, obstruction of aisles and exits and such other control as may be necessary to render the occupation of such structure or its use by the public safe.

(15) Rendering nonflammable the tent and canvas parts of the structure and all combustible decorative materials, including curtains, acoustic materials, streamers, cloth, cotton batting, straw, vines, leaves, trees, and moss. (1969 Code, § 5-12)

9-503. Permit fees. (1) The following fees are to be paid to the city for permits required by this chapter, in addition to any other fee, tax, or payment required by any other provisions of this code or state statutes:

- (a) Rodeo and wild west show, per day \$150.00
- (b) Menageries, per day 75.00
- (c) Circuses and menagerie parades within the city, when circus or menagerie is located outside city, per day 100.00
- (d) Buildings for entertainment, amusement or exhibitions of any kind or nature not enumerated above:
 - Per day 2.00
 - Per week 6.00
 - Per month 15.00
 - Per six months 25.00
- (e) Motor carnival, per day (first day) 100.00
 - Per day (after first day) 75.00
 - Concessions--Less than 20' x 20' per day 3.00
 - Concessions--20' x 20' or more, per day 5.00
- (f) Circus, per day (first day) 100.00
 - Per day (after first day) 75.00
 - Concessions--Less than 20' x 20' per day 3.00
 - Concessions--20' x 20' or more, per day 5.00
- (g) Tent shows, except religious:
 - Per day 20.00
 - Per week 75.00
- (h) Any amusement or entertainment or show of any kind, except religious, on any lot of land in the city not included above:
 - Per day 20.00
 - Per week 75.00

(2) The above fees shall not apply to those activities fostered and supervised by the recreation department of the city or to permanently located amusement facilities. (1969 Code, § 5-13, modified)

9-504. Occupancy of structure prohibited prior to issuance of permit. It shall be unlawful for any person to cause or permit the occupancy of a structure for purposes defined in this chapter, as a place of assembly, unless the permit required by this chapter has been issued. (1969 Code, § 5-14)

9-505. Liability insurance and cash bond. The applicant for a permit required by this chapter shall furnish evidence that a public liability insurance policy in the amount of not less than one hundred thirty thousand dollars (\$130,000.00) for one person and three hundred fifty thousand dollars (\$350,000.00) for any one accident, is in force and effect at the time such structure is to be occupied as a place of assembly by the public. The applicant shall deposit with the city finance director a cash bond in the sum of three

hundred dollars (\$300.00), conditioned that no damage will be done to the streets, sewers, trees or adjoining property and that no dirt, paper, litter or other debris will be permitted to remain upon the streets or upon any private property by such applicant. Such cash bond shall be returned to the applicant upon certification by the city manager that all conditions of this chapter have been complied with. (1969 Code, § 5-15, modified)

9-506. Inspection of premises. The city manager shall cause an inspection to be made, at least forty-eight (48) hours prior to the first performance or to the erection of a structure for which a permit is required by this chapter, to determine if provisions of all health, safety, and zoning rules, regulations, and appropriate sections of this code are complied with or will be complied with in a satisfactory manner. (1969 Code, § 5-16)

9-507. Revocation of permit. If the city manager finds that a structure is being maintained in violation of any of the provisions of this chapter, or in such a manner as to constitute a fire hazard, the city manager may revoke the permit issued under this chapter and it shall thereafter be unlawful for any person to continue to operate the activity or show covered by such permit or to allow the occupancy of such structure. (1969 Code, § 5-17)

CHAPTER 6

SWIMMING POOLS¹

SECTION

- 9-601. Definitions.
- 9-602. Permit to operate.
- 9-603. Approval of plans and specifications.
- 9-604. Inspections.
- 9-605. Responsibility for closing pool.
- 9-606. Standards of compliance.
- 9-607. Fencing required.
- 9-608. Penalty for violation.

9-601. Definitions. (1) "Swimming pool." A swimming pool is an artificial body of water used collectively by a number of persons primarily for the purpose of swimming, recreational bathing or wading, and includes any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the swimming pool such as equipment, dressing, locker, shower and toilet rooms. Public swimming pools include but are not limited to those which are for parks, schools, motels, camps, resorts, apartments, clubs, hotels, trailer coach parks, subdivisions and the like. Pools used for the purpose of providing swimming instructions for a consideration are included within the coverage of this chapter. Pools and portable pools located on the same premises with a 1, 2, 3, or 4 family dwelling and for the benefit of the occupants and their guests, natural bathing areas such as streams, lakes, rivers or human-made lakes are exempt from §§ 9-602 through 9-606 of this chapter.

(2) "Operator." The term "operator" shall mean any person who, by contract, agreement, or ownership, takes responsibility for the operation of any swimming pool.

(3) "Person." The word "person" shall mean any individual, firm, corporation, or association, or any other public or private entity. (1969 Code, § 5-65)

9-602. Permit to operate. It shall be unlawful for any person to operate a swimming pool in the city who does not possess a permit from the city manager. A permit shall be issued by the city manager for such an operation upon application and upon determination that the proposed operation complies

¹Municipal code reference

Building, utility, etc., codes: title 12.

Privilege taxes: title 5, chapter 2.

with the requirements of this chapter. Permits shall not be transferrable with respect to persons or locations. Such a permit may be suspended by the city manager upon violation by the permit holder of any terms of this chapter, or for interference with the city manager in the performance of the city manager's duties, or may be revoked, after an opportunity for a hearing by the city manager, upon serious or repeated violations. (1969 Code, § 5-66)

9-603. Approval of plans and specifications. No person shall construct, install, provide, equip, or alter a swimming pool until the plans and specifications thereof have been submitted to and approved in writing by the city manager.

The city manager shall examine the plans and specifications using the Tennessee Department of Public Health minimum standards for public swimming pools as a guideline and determine whether the pool facilities, if constructed in accordance therewith, are or would be sufficient and adequate to protect the public health and safety. If the plans and specifications are not approved, the city manager shall notify the applicant of the deficiencies. The applicant may have plans and specifications amended to remedy the deficiencies and resubmit the documents for further consideration. All plans and specifications shall be approved by the city manager prior to beginning construction. (1969 Code, § 5-67)

9-604. Inspections. The city manager shall make periodic inspections of all public swimming pools. The city manager shall be permitted access to all areas of the swimming pool at any reasonable time and shall be permitted to make tests and collect samples required to determine the quality of the swimming pool water. (1969 Code, § 5-68)

9-605. Responsibility for closing pool. The pool operator shall be responsible for closing the swimming pool whenever it is unsafe for use and not reopening until the unsafe condition has been eliminated. The city manager may order such closing if the operator neglects to do so, or during an epidemic of certain diseases in the community. (1969 Code, § 5-69)

9-606. Standards of compliance. A swimming pool shall be considered unsafe for use when one or more of the following conditions exist:

(1) Whenever the disinfectant residual is too low or absent; the free chlorine residual is less than 0.4 ppm, or bromine residual is less than 1.0 ppm during any five hour period when the pool is open for use.

(2) Whenever turbidity is great enough that a disc two (2) inches in diameter which is divided into quadrants in alternate colors of red and black is not discernable through fifteen (15) feet of water and the different colors are not readily distinguishable.

(3) Whenever the growth of algae is great enough to cause slipping hazards.

(4) When on two (2) successive samples collected twenty-four (24) hours apart, the coliform bacteria count exceed one organism of the coliform group per 100 ml of water or the total bacteria count exceeds 200 colonies per milliliter.

(5) Whenever the water level in the pool is too low or too high and prevents gutters or skimmers from functioning properly. If existing pools are not constructed with built in gutters or skimmer, other skimming methods may be approved which will remove extraneous floating matter, such as hair, lint, etc., from the pool.

(6) Whenever there are foreign objects, such as broken glass, in the pool which would impair the safety of the users.

(7) Whenever unapproved or unsafe chemicals or excessive quantities of otherwise proper chemicals are used.

(8) Whenever the surroundings such as the deck, shower areas and toilet rooms are insanitary or in disrepair.

(9) Whenever the pH of the swimming pool is less than 7.1 or greater than 7.6. (1969 Code, § 5-70)

9-607. Fencing required. Every outdoor swimming pool shall be completely surrounded by a fence or wall not less than four (4) feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates; and if a picket fence is erected or maintained, the horizontal dimensions shall not exceed four (4) inches. A dwelling house or accessory building may be used as part of such enclosure.

All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.

This requirement shall be applicable to all new swimming pools hereafter constructed, other than indoor pools, and shall apply to all existing pools which have a depth of eighteen (18) inches or more of water. No person in possession of land within the city, either as owner, purchaser, lessee, tenant or a licensee, upon which is situated a swimming pool having a depth of eighteen (18) inches or more, shall fail to provide and maintain such fence or wall as herein provided.

The city manager may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefor, provided the protection as sought hereunder is not reduced thereby. The city manager may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein. The city manager

shall allow a reasonable period within which to comply with the requirements of this section, but in no case more than six (6) months. (1969 Code, § 5-71)

9-608. Penalty for violation. Any person violating this chapter, upon conviction, shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) or sentenced to city jail for not more than ninety (90) days, or both such fine and jail sentence in the discretion of the court. Each day that such violation continues shall constitute a separate offense. (1969 Code, § 5-72)

CHAPTER 7

ADULT ENTERTAINMENT ESTABLISHMENTS¹

SECTION

- 9-701. Purpose and findings.
- 9-702. Definitions.
- 9-703. Location of adult entertainment establishments.
- 9-704. Hours of operation; inspection.
- 9-705. License required.
- 9-706. Application for license.
- 9-707. Inspections.
- 9-708. Issuance of license.
- 9-709. Extensions of time for applicant.
- 9-710. Denial of license.
- 9-711. Layout standards for issuance of license.
- 9-712. Permit required.
- 9-713. Application for permit.
- 9-714. Standards for issuance of permit.
- 9-715. Fees.
- 9-716. Display of license or permit.
- 9-717. Renewal of license or permit.
- 9-718. Fees for renewal of license or permit.
- 9-719. Revocation or suspension of license or permit.
- 9-720. Appeal of revocation or suspension.
- 9-721. Judicial review.
- 9-722. Responsibilities of the operator and employees.
- 9-723. Prohibited activities.
- 9-724. Penalties.

9-701. Purpose and findings. (1) Purpose. It is the purpose of this chapter to regulate adult entertainment establishments to promote the health, safety, and welfare of the citizens of the City of Oak Ridge, and to establish reasonable and uniform regulations. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials or entertainment. Similarly, it is not the intent nor the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented materials or entertainment to their intended market.

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

(2) **Findings.** Based on evidence concerning the adverse secondary effects of adult entertainment establishments on communities presented in reports and studies made available to city council, including but not limited to, Austin, Texas; Phoenix, Arizona; Los Angeles, California; and Minnesota; and on findings incorporated in cases, including but not limited to, City of Renton v. Playtime Theatres, Inc., 106 S.Ct. 925 (1986); Young v. American Mini Theatres, Inc., 96 S.Ct. 2440 (1976); FW/PBS, Inc. v. City of Dallas, 110 S.Ct. 596 (1990); DLS Inc. a/b/a Diamonds and Lace Showbar v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997), 914 F. Supp. 193 (E.D. Tenn. 1995), 894 F. Supp. 1140 (E.D. Tenn. 1995); and on studies incorporated in the case of ILQ Investments, Inc. v. City of Rochester, 25 F.3d 1413 (8th Cir. 1994); the city finds:

(a) Adult entertainment establishments lend themselves to unlawful and unhealthy activities.

(b) Sexual acts, including masturbation, oral sex and anal sex, occur at adult entertainment establishments, especially those which provide private or semi-private booths or cubicles for secluded viewing adult material or live sex shows.

(c) Numerous diseases may be spread by activities occurring in adult entertainment establishments including, but not limited to, acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus (HIV), chlamydia, gonorrhea, and syphilis.

(d) Numerous studies have determined that semen is found in the areas of adult entertainment establishments where persons view adult oriented films.

(e) Conditions in some adult entertainment establishments are unsanitary and unhealthy, in part because the activities conducted there are unhealthy and because the owners fail to regulate the activities and maintain the facilities in a healthy and sanitary manner.

(f) Permitting entertainers to be in close contact with patrons initiates the exchange of money which may reasonably be expected to serve as an opportunity to solicit for and an inducement to agree to unprotected and/or illegal sexual activity, including but not limited to, prostitution, pandering, solicitation for prostitution, exposing minors to harmful materials, and the possession, distribution and transportation of obscene materials. (Ord. #16-99, Aug. 1999)

9-702. Definitions. (1) "Adult entertainment" means the regular presentation, for a fee or incidentally to another service, of material or exhibitions distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons.

(2) "Adult entertainment establishment" means any commercial establishment, including but not limited to: adult bookstore, adult cabaret, adult motel, adult nightclub, adult telecommunications business, adult theater,

and adult video store. Adult entertainment establishment further means any commercial establishment to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, stalls, cubicles, or rooms separate from the common areas of the premises for the purpose of viewing sexually oriented motion pictures, sexually oriented movies, sexually oriented films, adult videos, or wherein an entertainer provides sexually oriented entertainment to a member of the public, a patron, or member.

(3) "Adult bookstore" means a business having a majority of its stock and trade, a majority of its total sales, or a majority of its floor space in books, films, video cassettes, magazines, other periodicals, devices, paraphernalia or any other items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below, or any combination or form thereof, for observation by patrons; or in conjunction therewith has facilities for the presentation of sexually oriented material, including sexually oriented movies, adult videos, sexually oriented films, or sexually oriented live entertainment, for observation by patrons.

(4) "Adult cabaret" means an establishment which features as a principal use of its business, entertainers or any employees who expose to the public view of patrons with the establishment, at any time, "specified anatomical areas" even if completely covered by translucent material; including swimsuits, lingerie, or latex covering. Adult cabarets also include any commercial establishments that feature entertainment of an erotic nature including female topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

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

(a) Offers 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," as defined below; and may have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions. This definition shall not include "R-rated" films so defined by the Motion Picture Association; or

(b) Offers a sleeping room for rent more than two (2) times in a period of ten (10) hours; or

(c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours; or

(d) Offers or allows a discount or refund which is less than half the normal daily rate.

(6) "Adult nightclub" means a theater, concert hall, auditorium, nightclub, bar, restaurant, or similar commercial establishment which regularly

features live performances that are characterized by any actual or simulated performance of "specified sexual activities" or the exposure of "specified anatomical areas," as defined below.

(7) "Adult telecommunications business" means a commercial establishment where, by means of a telephone or other telecommunications device, any communication characterized by the description of "specified sexual activities" or "specified anatomical areas," as defined below, is made for commercial purposes to any person, regardless of whether the maker of such communication placed the call.

(8) "Adult theater" means an enclosed building regularly used for presenting films, motion pictures, video cassettes, slides, or other photographic reproductions or other material having as a dominate theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.

(9) "Adult video store" means an establishment having a majority of its stock and trade, a majority of its total sales, or a majority of its floor space in films, videos, or any other photographic reproductions or visual images which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation, purchase, or rental of sexually oriented material, including sexually oriented movies, adult videos, sexually oriented films, or sexually oriented live entertainment. This definition shall only include films which receive a rating above "R-rated" by the Motion Picture Association.

(10) "Chief of police" means the Chief of Police for the City of Oak Ridge, Tennessee or his or her duly authorized representative.

(11) "Employee" means a person who performs any service on the premises of an adult entertainment establishment on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not such person is paid a salary, wage, or other compensation by the operator of such 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.

(12) "Entertainer" means any person who provides entertainment within an adult entertainment establishment, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee, escort, or independent contractor.

(13) "Escort" means a person who, for consideration, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort.

(14) "Escort service" means a person or business association who, for consideration, furnishes, offers to furnish, or advertises to furnish escorts or provides or offers to introduce patrons to escorts.

(15) "Massage" means any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, and/or stroking, kneading, rubbing, tapping, pounding, vibrating, stimulating or otherwise manipulating of a part or the whole of the human body or the muscles or joints thereof, with the hands or with the aid of any mechanical electrical apparatus with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointment, or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided, or some third person on his or her behalf, will pay money or give any other consideration or gratuity therefor. Massage shall also mean the giving, receiving or administering of a bath to any person, or the application of body paint to any person.

(16) "Massage establishment" means any establishment having a source of income or compensation derived from the practice of massage, and which has a fixed place of business where any person engages in or carries on any of the activities listed under the definition of massage.

(17) "Operator" means any person, partnership, corporation or other entity operating, conducting, or maintaining an adult entertainment establishment.

(18) "Police department" means the Police Department for the City of Oak Ridge, Tennessee.

(19) "Sexually oriented material" means any book, article, magazine, publication, or written matter of any kind, drawing, etching, painting, photograph, motion picture film, or sound recording, which depicts sexual activity, actual or simulated, involving human beings or human beings and animals, or which exhibits uncovered human genitals or pubic region in a lewd or lascivious manner or which exhibits human male genitals in a discernibly turgid state, even if completely covered, or any similar material.

(20) "Specified anatomical areas" mean:

(a) Less than completely and opaquely covered:

(i) Human genitals;

(ii) Pubic region;

(iii) Buttocks; and

(iv) Female breasts below a point immediately above the top of the areola.

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

(c) Use of artificial devices or inanimate objects to depict any of the items described above.

(21) "Specified sexual activities" means:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse, oral sex, or sodomy;
- (c) Fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts;
- (d) Acts of bestiality; and
- (e) Use of artificial devices or inanimate objects to depict any of the activities described above. (Ord. #16-99, Aug. 1999)

9-703. Location of adult entertainment establishments. All adult entertainment establishments must be located within an area zoned as B-2 as set forth in the zoning ordinance and must comply with the additional requirements set forth below.

(1) An operator commits an offense if he or she operates or causes to be operated an adult entertainment establishment within one thousand feet (1,000') of any existing: public or private, or charter school; child care facility; public park; place of worship; family recreation center (as defined in Tennessee Code Annotated, § 7-51-1401); hospital; mortuary; or adult entertainment establishment.

(2) An operator commits an offense if he or she operates or causes to be operated an adult entertainment establishment within one thousand feet (1,000') of any existing residential zoning district.

(3) The distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of a parcel where an adult entertainment establishment is conducted, to the nearest point on the property line of the parcel containing any of the areas listed in subsections (1) and (2). (Ord. #16-99, Aug. 1999, as replaced by Ord. #16-2012, Oct. 2012)

9-704. Hours of operation; inspection. (1) No adult entertainment establishment shall be open to do business before eight o'clock A.M. (8:00 A.M.), Monday through Saturday; and no establishment shall remain open after twelve o'clock (12:00) midnight, Monday through Saturday. No adult entertainment establishment shall be open for business on any Sunday or legal holiday as designated by state law.

(2) All adult entertainment establishments shall be open to inspection during business hours to the following departments: code enforcement, fire and police. (Ord. #16-99, Aug. 1999)

9-705. License required. (1) No adult entertainment establishment shall be operated or maintained within the City of Oak Ridge without first obtaining a license to operate issued by the police department.

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

corporation or other entity which desires to operate more than one (1) adult entertainment establishment must have a separate license for each establishment.

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

(4) It shall be unlawful for any entertainer, employee, or operator to knowingly work in or about or to knowingly perform any service directly related to or at the request of the operation of any unlicensed adult entertainment establishment. (Ord. #16-99, Aug. 1999)

9-706. Application for license. (1) Any person, partnership, corporation or other entity desiring to secure a license shall make application to the police department. The application shall be filled in and dated by the police department. The application shall have three copies. The original shall be retained by the police department and the copies distributed promptly to code enforcement, the fire department and the applicant.

(2) The application for the license shall be upon a form provided by the police department.

(3) The following persons must obtain a license: any general partner of a partnership, any officer or director of a corporate applicant, and any stockholder holding a majority or a controlling percentage of the stock of a corporate applicant, and who is involved in the day to day operation of the establishment.

(4) The applicant shall furnish the following information under oath:

(a) Name and address, including all aliases;

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

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

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

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

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

(g) All criminal statute violations, whether federal or state, or city ordinance violations, for which convictions, forfeiture of bond, or pleadings of nolo contendere have occurred, except minor traffic violations;

(h) All citations issued and sustained by a court within the past two (2) years for violations of provisions of the zoning ordinance applicable to adult entertainment establishments;

(i) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches in size, taken within sixty (60) days immediately prior to the date of application, showing the head and shoulders of the applicant in a clear and distinguishable manner;

(j) The address of the adult entertainment establishment to be operated by the applicant;

(k) If the applicant is a corporation, the application shall specify the name, address and telephone number of the corporation, the date and state of incorporation, the name and address of the registered agent for service of process of the corporation, the name and address of all officers and directors of the corporation, and the name and address of any stockholder holding a majority or a controlling percentage of the stock and who will be involved in the day to day operation of the business;

(l) If the applicant is a partnership, joint venture, or any other type of business, the applicant shall specify the name and address of all persons who will be involved in the day to day operation of the business and the name and address of all general partners of the partnership;

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

(n) The length of time the applicant has been a resident of the City of Oak Ridge or its environs immediately preceding the date of the application;

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

(p) If the applicant intends to have booths, stalls, cubicles, or rooms on the premises for the purpose of viewing sexually oriented films, adult videos, or live sexually oriented exhibitions, then along with the application, the applicant shall provide the police department with a diagram, drawn to scale, of the premises, including but not limited to, the location and layout of all booths, stalls, cubicles, or rooms and the locations of the clerk/manager's stand or counter. Though the diagram must be drawn to scale, it does not have to be professionally prepared. (Ord. #16-99, Aug. 1999)

9-707. Inspections. (1) The police department, code enforcement and fire department shall, upon receipt of the application, inspect the premises to insure the establishment complies with the code of ordinances including applicable zoning ordinances, fire ordinances, and regulations.

(2) If a diagram is required to be submitted under § 9-706(4)(p), then the code inspector shall confirm that the layout of the booths, stalls, cubicles, or rooms complies with the submitted diagram and the requirements in § 9-711.

(3) All departments shall complete their inspections and shall communicate their results to the chief of police, in writing, within thirty (30) days of receipt of the application. The writing shall end with one of the following statements:

"The location at _____ complies with the relevant and applicable code sections, rules, and regulations."

"The location at _____ does not comply with the relevant and applicable code sections, rules, and regulations. It is in violation of the following provisions: Section numbers of code violations.

(4) If the building has a valid use and occupancy permit, the applicant shall provide the police department with a copy of the valid use and occupancy permit which shall be made part of the applicant's file. (Ord. #16-99, Aug. 1999)

9-708. Issuance of license. (1) Within ten (10) days of receiving the results of all department investigations and the criminal background check, the chief of police shall determine if the applicant is in compliance with applicable statutes, ordinances, rules, and regulations. If the applicant, including any officer, director or stockholder required to be named under § 9-706(4)(k), is in compliance and is at least eighteen (18) years of age, has not given any false or misleading information on the application, and has not omitted any material facts from the application, then the chief of police shall grant the license.

(2) Any applicant including any officer, director or stockholder required to be named under § 9-706(4)(k), convicted of or who pleaded nolo contendere to any crime of a sexual nature, or any crime involving moral turpitude shall be ineligible to receive a license for the time period described below. Such denial and reason for the denial shall be mailed to the applicant within ten (10) days of receiving the results of the investigations. The applicant may re-apply once the time period has expired.

(a) If the conviction or plea was for a misdemeanor violation, then the applicant shall be ineligible to receive a license for two (2) years.

(b) If the conviction or plea was for a felony violation, then the applicant shall be ineligible to receive a license for five (5) years.

(c) The time is computed from the date of the conviction, plea, or release from confinement, whichever is later.

(3) If the applicant has violated the provisions of the zoning ordinance applicable to adult entertainment establishments within the past two (2) years, then the applicant shall be ineligible to receive a license for one (1) year from the date the citation was issued.

(4) If the establishment is not in compliance with the layout requirements or the submitted diagram, then the applicant is not in compliance and the license shall be denied until the applicant is in compliance.

(5) If in the course of any investigation it is discovered that any false or misleading information was given on the application, or material facts omitted, the chief of police shall deny the application.

(a) The applicant shall be ineligible to receive a license for one (1) year from the date of the application which contained misleading, false, or omitted information, unless such information referred to the age of the applicant or to any crime.

(b) If the false, misleading, or omitted information referred to the age of the applicant, then the applicant shall be ineligible to receive a license until all persons who will participate in the day to day operation of the establishment are eighteen (18) years of age or until one (1) year has passed from the date of the application, whichever is longer.

(c) If the false, misleading, or omitted information referred to any crime, then the applicant shall be ineligible to receive a license until the time limit in subsection (2) has expired.

(6) The chief of police has the discretion to hold any and all applications for further investigation, which shall not exceed thirty (30) days, unless the applicant agrees otherwise, if:

(a) The initial investigation indicates a need for additional information,

(b) The initial investigation requires investigation into out-of-state records, or

(c) Verification of out-of-state employment is needed.

(7) In no circumstances shall a license be issued without the police department completing a full investigation into the applicant's criminal background. (Ord. #16-99, Aug. 1999)

9-709. Extensions of time for applicant. (1) The applicant has ten (10) days from the mailing of the notice to cure the violations and notify the police department. The police department has five (5) days, from the date of notification by the applicant, to notify the appropriate department that the applicant believes he or she has come into compliance and requests another inspection. The inspector shall reinspect within ten (10) days of receiving notice by the police department and notify the police department of the result.

(2) The applicant may request an extension from the police department if the process of curing the violation takes longer than ten (10) days. The request shall be in writing and filed with the police department within ten (10) days of the notice of denial. The police department shall grant the extension only when the applicant has made a good faith effort to make the necessary repairs or cure the violation(s) in a timely manner. Once the applicant notifies the police department that the applicant believes he or she has come into compliance, the time limits imposed under subsection (1) shall apply. (Ord. #16-99, Aug. 1999)

9-710. Denial of license. (1) Whenever an application has been denied or held for further investigation, the chief of police shall notify the applicant in writing of the reasons for such action. If the applicant requests a hearing, in writing, to the police department within ten (10) of the mailing of the notification of denial, a public hearing shall be held thereafter before city council at which time the applicant may present evidence as to why his or her license should not be denied. The public hearing shall be within thirty (30) days of the police department's receipt of the request. City council shall either affirm or reject the denial of the application at the hearing.

(2) Failure on the part of the applicant to request within the time limit provided is a waiver of the right to a hearing before city council.

(3) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the chief of police. (Ord. #16-99, Aug. 1999)

9-711. Layout standards for issuance of license. (1) Any adult entertainment establishment having available for customers, patrons, or members any booth, stall, cubicle, or room for private viewing of any adult entertainment including but not limited to, sexually oriented films, sexually oriented movies, adult videos, or sexually oriented live exhibitions, shall submit a diagram with the application and such diagram shall be substantially the same as the structure observed by the inspector.

(2) Each booth, stall, cubicle, or room shall be totally accessible to and from aisles and public areas of the adult entertainment establishment and shall be unobstructed by any door, curtain, gate, lock, or other control-type devices.

(3) Every booth, stall, cubicle, or room shall meet the following construction requirements:

(a) It shall be separated from adjacent booths, stalls, cubicles, and rooms and any nonpublic areas by a solid or opaque wall;

(b) It shall have at least one (1) side totally open to a lighted public aisle so that there is an unobstructed view at all times of anyone occupying same;

(c) All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, nonabsorbent, smooth textured, and easily cleaned; and

(d) Each booth, stall, cubicle, or room shall be illuminated by a light bulb of wattage no less than twenty-five (25) watts.

(4) Only one patron shall occupy a booth, stall, cubicle, or room at any time. No occupant of the same shall engage in any type of sexual activity, cause

any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth.

(5) The requirements of subsections (1) through (3) of this section shall not apply to bathrooms unless the bathroom contains any equipment which would allow the viewing of sexually oriented films, sexually oriented movies, adult videos, or sexually oriented live exhibitions. (Ord. #16-99, Aug. 1999)

9-712. Permit required. In addition to the license requirements previously set forth for owners and operators of adult entertainment establishments, no person shall be an employee or entertainer in an adult entertainment establishment without first obtaining a valid permit issued by the police department. (Ord. #16-99, Aug. 1999)

9-713. Application for permit. (1) Any person desiring to secure a permit shall make application to the police department. The original shall be filed with the police department and the copy given to the applicant.

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

- (a) Name and address, including all aliases;
- (b) Written proof that the individual is at least eighteen (18) years of age;
- (c) All residential addresses of the applicant for the past three (3) years;
- (d) The applicant's height, weight, color of eyes and hair;
- (e) The business, occupation, or employment of the applicant for five (5) years immediately preceding the date of the application;
- (f) Whether the applicant, while previously employed in this or any other city or state under an adult entertainment establishment permit or similar business for whom applicant was employed or associated at the time, he or she has ever had such a permit revoked or suspended, the reason thereof, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statute violations, whether federal or state, or city ordinance violations, for which conviction, forfeiture of bond, and pleadings of nolo contendere have occurred, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches in size, taken within sixty (60) days immediately prior to the date of application, showing the head and shoulders of the applicant in a clear and distinguishable manner.

(i) The length of time the applicant has been a resident of the City of Oak Ridge or its environs immediately preceding the date of the application.

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

(3) Within ten (10) days of completing the investigation, the chief of police shall notify the applicant, in writing, that his or her application is granted, denied, or held for further investigation.

(4) The chief of police has the discretion to hold any and all applications for further investigation, which shall not exceed an additional thirty (30) days, unless otherwise agreed to by the applicant. Upon conclusion of such additional investigations, the chief of police shall advise the applicant, in writing, whether the application is granted or denied. The chief of police may hold an application for further investigation if:

(a) The initial investigation indicates a need for additional information,

(b) The initial investigation requires investigation into out-of-state records, or

(c) Verification of out-of-state employment is needed.

(5) Whenever an application is denied or held for further investigation, the chief of police shall advise the applicant, in writing, of the reasons for such action. If the applicant requests a hearing, in writing, to the police department within ten (10) days of the mailing of notification of denial, a public hearing shall be held thereafter before city council at which time the applicant may present evidence bearing upon the question. The public hearing shall be held within thirty (30) days of the police department's receipt of the request. City council shall either affirm or reject the denial of the application at the hearing.

(6) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the chief of police. (Ord. #16-99, Aug. 1999)

9-714. Standards for issuance of permit. (1) To receive a permit as an employee, an applicant must meet the following standards:

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

(b) The applicant shall not have been convicted of or plead nolo contendere to any felony or any crime of a sexual nature or involving moral turpitude within the past five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been convicted of or plead nolo contendere to any misdemeanor of a sexual nature or involving moral

turpitude within the past two (2) years immediately preceding the date of the application.

(d) The time is computed from the date of the conviction, plea, or release from confinement.

(e) The applicant shall not have been found to violate any provision of this chapter within one (1) year immediately preceding the date of the application.

(f) If, in the course of any investigation, it is discovered that any false or misleading information was given on the application, or material facts omitted from the application, the chief of police shall deny the application.

(i) The applicant shall be ineligible to receive a permit for one (1) year from the date of the application which contained the false, misleading, or omitted information, unless such information referred to the age of the applicant or to any crime.

(ii) If the false, misleading, or omitted information referred to the age of the applicant, then the applicant shall be ineligible to receive a permit until he or she is eighteen (18) years of age or until one (1) year has passed from the date of the application, whichever is longer.

(iii) If the false, misleading, or omitted information referred to any crime, then the applicant shall be ineligible to receive a permit until the time period described in § 9-708(2) has expired.

(g) The permit carried by the employee shall only contain the following information: a photo identification as provided by the applicant, a computer-generated number assigned to each employee that corresponds to the file maintained on each applicant by the police department, and the applicant's date of birth.

(2) No permit shall be issued until the police department has conducted a full investigation into the applicant's qualifications to receive a permit. (Ord. #16-99, Aug. 1999)

9-715. Fees. (1) A license fee of five hundred dollars (\$500) shall be submitted with the application for a license. If the application is denied, one-half (½) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100) shall be submitted with the application for a permit. If the application is denied, one-half (½) of the fee shall be returned. (Ord. #16-99, Aug. 1999)

9-716. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult entertainment establishment.

(2) The permit shall be carried by or be accessible to the employee during the employee's working hours and shall be displayed upon request of any patron, customer or law enforcement personnel.

(3) If the business for which a license was issued ceases to exist for any reason, such license shall be returned to the police department. (Ord. #16-99, Aug. 1999)

9-717. Renewal of license or permit. (1) Every license and permit issued pursuant to this chapter shall terminate at the expiration of one (1) year from the date of the issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year.

(2) Any operator desiring to renew a license or employee desiring to renew a permit shall make application to the police department.

(3) Application for renewal must be filed not later than sixty (60) days prior to the expiration of the license or permit.

(4) An application for renewal of a license requires three copies: the original is retained by the police department and the copies are given to code enforcement, the fire department and the applicant.

(5) An application for renewal of a permit requires one copy: the original is retained by the police department and the copy is given to the applicant.

(6) The police department shall provide the applicant with a copy of the application from the previous year and a new application form. The form shall be the same as the original application except the final line shall state:

"I swear the information I have given in the application from (previous year) is still accurate and any facts or circumstances which have changed are indicated in this application for renewal of the license/permit."

(7) For a renewal, an applicant may fill out the new application in its entirety or may fill in any information which has changed over the year and is now different from the prior year.

(8) If the applicant chooses to only include information which has changed in the past year, the applicant shall swear to the accuracy of both the information contained in the renewal application and the information attached from the prior year.

(9) Notwithstanding anything herein to the contrary, any application for renewal of a license or a permit shall be handled, investigated and approved or denied within the same time periods as those established in this chapter for original license and permit applications. (Ord. #16-99, Aug. 1999)

9-718. Fees for renewal of license or permit. (1) A license renewal fee of five hundred dollars (\$500) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100) shall be assessed against the applicant who files for renewal less than

sixty (60) days before the license expires. If the application for renewal is denied, one-half (½) of the total fees shall be returned.

(2) A permit renewal fee of one hundred dollars (\$100) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of fifty dollars (\$50) shall be assessed against the applicant who files for renewal less than sixty (60) days before the permit expires. If the application for renewal is denied, one-half (½) of the total fees shall be returned. (Ord. #16-99, Aug. 1999)

9-719. Revocation or suspension of license or permit. The chief of police shall revoke a license or permit when:

(1) It is discovered that false or misleading information was given on any application or material facts were omitted from any application;

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

(3) The operator or employee becomes ineligible to obtain a license or permit;

(4) Any cost or fee required to be paid by this chapter is not paid;

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

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

(7) An operator, employee, or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult entertainment or sexually oriented material;

(8) An operator, employee, or entertainer denies access to law enforcement personnel to any portion of the licensed premises wherein adult entertainment is permitted or to any portion of the licensed premises wherein sexually oriented materials is displayed or sold;

(9) An operator allows the continuing violation of any city ordinance, including any of the rules and regulations of code enforcement, the fire department or the zoning ordinance;

(10) An operator fails to maintain the premises in a clean, sanitary, and safe condition; or

(11) Any person transfers or attempts to transfer a license or permit or any interest in a license or permit. This shall automatically and immediately revoke the license or permit.

An operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. (Ord. #16-99, Aug. 1999)

9-720. Appeal of revocation or suspension. (1) The police department shall give the operator or employee at least fifteen (15) days written notice of the revocation or suspension listing the specific charges against him or her and the opportunity to have a public hearing before city council.

(2) The operator or employee may make a written request, within ten (10) days from the mailing of the notification of the police department, for a hearing before city council on the issue of the revocation or suspension. The written request must be sent to the police department.

(3) If the operator or employee requests a hearing before city council, the license or permit shall remain in effect and valid during the appeal to city council.

(4) The operator or employee may present evidence bearing on the question of revocation or suspension.

(5) City council shall hear, within thirty (30) days, all evidence pertaining to the revocation or suspension. At the meeting, city council shall either affirm or reject the revocation or suspension.

(6) If the operator or employee fails to request a hearing within ten (10) days of the mailing of notification from the police department, he or she will have waived the right to a hearing before city council. (Ord. #16-99, Aug. 1999)

9-721. Judicial review. All decisions on the revocation, suspension, refusal to issue, or non-renewal of a license or permit may be reviewed by the chancery courts. (Ord. #16-99, Aug. 1999)

9-722. Responsibilities of the operator and employees. (1) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birthdate, sex, height, weight, color of hair and eyes, telephone numbers, social security number, driver license number, date of employment and termination, and duties of each employee. This information shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of employees available immediately for inspection by law enforcement personnel during business hours.

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

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

(5) There shall be posted and conspicuously displayed in the common areas of each adult entertainment establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult motion pictures shall be considered entertainment. The operator shall make a list available immediately upon demand by law enforcement personnel during business hours.

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

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

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

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

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

This Adult Entertainment Establishment is Regulated by Code of Ordinances, City of Oak Ridge, Tennessee, title 9, chapter 7. Employees are:

- (a) Not permitted to engage in any type of sexual conduct;
- (b) Not permitted to expose their sex organs;
- (c) Not permitted to demand or collect all or any portion of a fee or charge for entertainment before its completion. (Ord. #16-99, Aug. 1999)

9-723. Prohibited activities. (1) No operator, employee or entertainer of an adult entertainment establishment shall permit to be performed, offer to perform, perform, or allow customers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

(3) No employee, entertainer or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performance shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest employee or customer. (Ord. #16-99, Aug. 1999)

9-724. Penalties. (1) Any individual, partnership, corporation or other entity violating any of the provisions of this chapter shall be subject to any of the following penalties:

(a) Five hundred dollars (\$500) for each offense; and/or

(b) Suspension of any license or permit for a specified time for each offense; or

(c) Revocation of any license or permit for any conduct listed in § 9-719.

(2) The penalty of suspension shall not be combined with revocation. However, the five hundred dollar (\$500) penalty may be combined with suspension.

(3) Each violation of this chapter shall be considered a separate offense and any violation continuing more than one (1) hour shall be considered a separate offense for each hour of the violation. (Ord. #16-99, Aug. 1999)

CHAPTER 8

ADULT ENTERTAINMENT--RELATED ESTABLISHMENTS

SECTION

9-801. Escort service.

9-802. Massage establishments.

9-801. Escort service. An escort service shall be subject to the licensing and permit provisions, location and inspection requirements, display requirements and the penalties of this chapter as it applies to adult entertainment establishments. (Ord. #16-99, Aug. 1999)

9-802. Massage establishments. (1) A massage establishment shall be subject to the licensing and permit provisions, location and inspection requirements, display requirements and the penalties of this chapter as it applies to adult entertainment establishments, except as follows:

(a) The application fee for a license shall be two hundred and fifty dollars (\$250);

(b) The application renewal fee for a license shall be two hundred and fifty dollars (\$250); and a late penalty of one hundred and twenty-five dollars (\$125) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires.

(2) This section is inapplicable to those persons who perform massage as part of their profession, while acting within the scope of their profession, including but not limited to, state registered and licensed:

(a) Physicians or surgeons,

(b) Chiropractors,

(c) Physical therapists,

(d) Nurses,

(e) Health practitioner, or

(f) Barbers or beauticians, except that this exemption shall only apply to massaging of the neck, face, scalp, hair, hands and feet of the customer or client for cosmetic or beautifying purposes.

(3) The facilities of a massage establishment must comply with the following requirements, in addition to any other requirements provided in this chapter:

(a) Construction of rooms used for toilets, tubs, steambaths, and showers shall be made waterproof and shall be installed in accordance with the city building code. Plumbing fixtures shall be in accordance with the plumbing code.

(b) Steam rooms and showers shall have waterproof floors, walls, and ceilings.

(c) Floors of wet and dry heat rooms shall be adequately pitched to one (1) or more floor drains properly connected to the sewer, except that dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.

(d) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such materials shall be disinfected and sterilized after each and every use on a patron.

(e) Closed cabinets shall be provided and used for the storage of clean linen, towels, and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets which shall be kept separate from the clean storage area.

(4) No employee of a massage establishment shall administer a massage who does not comply with the following individual health requirements:

(a) No employee shall administer a massage if such employee knows or should know that he or she is not free of any contagious or communicable disease.

(b) No employee shall administer a massage to any patron exhibiting signs of skin fungus, skin infection, skin inflammation or skin eruption, provided that a physician duly licensed by the state may certify that such person may be safely massaged and proscribing the conditions thereof.

(c) Each employee shall wash his or her hands in hot running water, using proper soap or disinfectant before administering a massage to each patron.

(5) The following acts shall be unlawful:

(a) It shall be unlawful for any person in a massage establishment to place his or her hand or hands upon or to touch with any part of his or her body, or to fondle in any manner or to massage, a sexual or genital part of a person.

(b) It shall be unlawful to any person in a massage establishment to expose his or her sexual or genital parts, or any portion thereof, to any other person.

(c) It shall be unlawful for any person, while in the presence of any other person in a massage establishment, to fail to conceal with fully opaque covering the sexual or genital parts of his or her body.

(d) The sexual or genital parts shall include the genitals, pubic area, buttocks or anus of any person, or the breast of any female. (Ord. #16-99, Aug. 1999)