

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
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CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. "Going out of business" sales.
9-102. License required for liquidation sales.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1986 Code, § 5-101)

9-102. License required for liquidation sales. No person, firm, or corporation shall publish or conduct any sale of the type defined in Tennessee Code Annotated, § 6-55-401, without first obtaining a license from the recorder

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

Change 3, October 7, 2004

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and complying in all respects with title 6, chapter 55, part 4, of the Tennessee Code Annotated. (1986 Code, § 5-102)

CHAPTER 2**PEDDLERS, ETC.**¹**SECTION**

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

9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1986 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1986 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

¹Municipal code references
Privilege taxes: title 5.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

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

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

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

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(9) 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.

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1986 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1986 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a

police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1986 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given. The surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1986 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality 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. (1986 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1986 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1986 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1986 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the governing body after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

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

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

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1986 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1986 Code, § 5-212)

9-213. 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. 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. (1986 Code, § 5-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.

9-302. Prerequisites for a permit.

9-303. Denial of a permit.

9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1986 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1986 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1986 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1986 Code, § 5-304)

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Taxicab franchise and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance required.
- 9-404. Revocation or suspension of franchise.
- 9-405. Mechanical condition of vehicles.
- 9-406. Cleanliness of vehicles.
- 9-407. Inspection of vehicles.
- 9-408. License and permit required for drivers.
- 9-409. Qualifications for driver's permit.
- 9-410. Revocation or suspension of driver's permit.
- 9-411. Drivers not to solicit business.
- 9-412. Parking restricted.
- 9-413. Drivers to use direct routes.
- 9-414. Taxicabs not to be used for illegal purposes.
- 9-415. Miscellaneous prohibited conduct by drivers.
- 9-416. Transportation of more than one passenger at the same time.
- 9-417. Fares.

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the municipality and has a currently effective privilege license. (1986 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab

¹Municipal code reference
Privilege taxes: title 5.

service; present the application to the governing body; and make a recommendation to either grant or refuse a franchise to the applicant. The governing body shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the governing body shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1986 Code, § 5-402)

9-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in an amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 55, chapter 12. The insurance policy or bond required by this section shall contain a provision that it shall not be canceled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the municipality. (1986 Code, § 5-403)

9-404. Revocation or suspension of franchise. The governing body, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1986 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the town unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1986 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the municipality shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day.

At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1986 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police, or his designated representative, to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1986 Code, § 5-407)

9-408. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the recorder. (1986 Code, § 5-408)

9-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the recorder:

- (1) Makes written application to the recorder.
- (2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.
- (3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1986 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The governing body, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1986 Code, § 5-410)

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1986 Code, § 5-411)

9-412. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1986 Code, § 5-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1986 Code, § 5-413)

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1986 Code, § 5-414)

9-415. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the municipality in any way. (1986 Code, § 5-415)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1986 Code, § 5-416)

9-417. Fares. The mayor and board of aldermen shall reserve unto themselves the right to set the charge for transporting passengers within the corporate limits. The failure to exercise this right shall not be deemed a waiver thereof. (1986 Code, § 5-417)

CHAPTER 5

POOL ROOMS¹

SECTION

9-501. Prohibited in residential areas.

9-502. Hours of operation regulated.

9-503. Minors to be kept out; exception.

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1986 Code, § 5-501)

9-502. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1986 Code, § 5-502)

9-503. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the parents are dead, then the guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1986 Code, § 5-503)

¹Municipal code reference
Privilege taxes: title 5.

CHAPTER 6

CABLE TELEVISION

SECTION

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television service shall be furnished to the Town of South Carthage and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of South Carthage and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. #193 dated November 7, 1996 in the office of the city recorder.

CHAPTER 7

MESSAGE BUSINESS ORDINANCE

SECTION

- 9-701. Title.
- 9-702. Definitions.
- 9-703. Permit required.
- 9-704. Application for massage business permit.
- 9-705. Application for masseur's permit.
- 9-706. Approval by police chief.
- 9-707. Issuance or denial of massage business permit.
- 9-708. Issuance or denial of masseur's permit.
- 9-709. Display of permits.
- 9-710. Massage business permit fee.
- 9-711. Masseur's permit fee.
- 9-712. Renewal of permit.
- 9-713. Revocation or suspension of permit.
- 9-714. Appeal.
- 9-715. Keeping of records.
- 9-716. Transfers prohibited.
- 9-717. Notification of changes.
- 9-718. Sanitation and safety requirements.
- 9-719. Advertising.
- 9-720. Supervision.
- 9-721. Treatment or massage given to person of opposite sex prohibited.
- 9-722. Persons under age eighteen prohibited on the premises.
- 9-723. Alcoholic beverages prohibited on the premises.
- 9-724. Employment of masseurs.
- 9-725. Cost of inspection.
- 9-726. Inspection required.
- 9-727. Rules and regulations.
- 9-728. Exceptions.

9-701. Title. This chapter shall be known as the Town of South Carthage Massage Business Ordinance. (1986 Code, § 5-601)

9-702. Definitions. (1) Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

(2) "Employee" means any person over eighteen years of age, other than a masseur, who renders any service in connection with the operation of a massage business.

(3) "Massage" means any method of treating the superficial parts of a patron for medical, hygienic, exercise, or relaxation purposes by stimulating with the hands or any instrument, or by the application of air, liquid, or vapor baths of any kind whatever.

(4) "Masseur" means any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

(5) "Patron" means any person over eighteen years of age who receives a massage under such circumstances that is reasonably expected that he will pay money or give any other consideration whatsoever therefor.

(6) "Recognized school" means any school or institution of learning which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study of not less than one hundred hours before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning, and which school has been approved pursuant to the education code of this state.

(7) The use of the masculine gender shall include in all cases the feminine gender as well. (1986 Code, § 5-602)

9-703. Permit required. (1) Business permit required. No person shall engage in or carry on the business of massage unless he has a valid and subsisting massage business permit issued by the town pursuant to the provisions of this chapter for each and every separate office or place of business conducted by such person.

(2) Masseur's permit required. No person shall practice massage as a masseur, employee, or otherwise unless he has a valid and subsisting masseur's permit issued to him by the town pursuant to the provisions of this chapter. (1986 Code, § 5-603)

9-704. Application for massage business permit. Any person desiring a massage business permit shall file a written application with the city recorder's office on a form to be furnished by the town. The applicant shall accompany the application with a tender of the correct permit fee as hereinafter provided and shall, in addition, furnish the following:

(1) The name, style, and designation under which the business or practice is to be conducted;

(2) The type of ownership of the business;

(3) The business address and all telephone numbers where the business is to be conducted;

(4) A complete list of the names, residence addresses, and social security numbers of all masseurs and employees in the business and the name, residence address and social security number of the manager or other person principally in charge of the operation of the business;

(5) The following personal information concerning the applicant, if an individual; and concerning each stockholder holding more than five percent of the stock of the corporation; each officer and each director, if the applicant be a corporation; and concerning the partners, including limited partners, if the applicant be a partnership; and concerning the manager or other person principally in charge of the operation of the business.

(a) Name, complete residence address, residence telephone numbers and social security number.

(b) The two previous addresses immediately prior to the present address of the applicant.

(c) Certified copy of birth certificate.

(d) Height, weight, color of hair and eyes, and sex.

(e) Two front face portrait photographs taken within thirty days of the date of the application and at least two inches by two inches in size.

(f) The message or similar business history and experience, including but not limited to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or suspended and the reason therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

(g) All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, and the offense for which convicted and the circumstances thereof.

(h) A complete set of fingerprints taken and to be retained on file by the town.

(i) Diploma, certificate, or other written proof of graduation from a recognized school by the person who shall be directly responsible for the operation and management of the massage business.

(6) Authorization for the town, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(7) The names and addresses of three adult residents of the county who will serve as character references. These references must be persons other than relatives and business associates.

(8) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the town. (1986 Code, § 5-604)

9-705. Application for masseur's permit. Any person desiring a masseur's permit shall file a written application with the city recorder's office on a form to be furnished by the town. The applicant shall tender with the application the correct permit fee as hereinafter provided and shall, in addition, furnish the following:

- (1) The business address and all telephone numbers where the massage is to be practiced.
- (2) The following personal information concerning the applicant:
 - (a) Name, complete residence address, residence telephone numbers and social security number.
 - (b) The two previous addresses immediately prior to the present address of the applicant.
 - (c) Certified copy of birth certificate.
 - (d) Height, weight, color of hair and eyes, and sex.
 - (e) Two front face portrait photographs taken within thirty days of the date of application and at least two inches by two inches in size.
 - (f) The massage or similar business history and experience, including but not limited to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or suspended and the reason therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation.
 - (g) All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, and the offense for which convicted and the circumstances thereof.
 - (h) A complete set of fingerprints taken and to be retained on file by the town.
 - (i) Diploma, certificate, or other written proof of graduation from a recognized school where the theory, method, profession or work of massage is taught.
 - (j) A statement in writing from a licensed physician in the state that he has examined the applicant and believes the applicant to be free of all communicable diseases.
- (3) Authorization for the town, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- (4) Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being dully dated and signed in the town. (1986 Code, § 5-605)

9-706. Approval by police chief. Upon receiving the application for a massage business or masseur's permit, the police chief of the town shall conduct an investigation into the applicant's moral character and personal and criminal history. The police chief may, in his discretion, require a personal interview of the applicant, and such further information, identification and physical examination of the person as shall bear on the investigation.

In the case of applications for massage business permits, the police chief shall cause to be conducted an investigation of the premises where the massage business is to be carried on, for the purposes of assuring that such premises

comply with all the sanitation requirements as set forth in this chapter and with the regulations of public health, safety, welfare and zoning as set forth in this code and state law.

No massage business permit shall be issued where the location of same will be within 2,000 feet of a church, school, or residence.

Before any permit shall issue under this chapter, the police chief shall first sign his approval of the application. (1986 Code, § 5-606)

9-707. Issuance or denial of massage business permit. (1) The police chief shall issue a massage business permit within sixty days of filing of the application with the city recorder unless he finds that:

(a) The correct permit fee has not been tendered to the town; and, in the case of a check or bank draft, honored with payment upon presentation;

(b) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the town's building, zoning and health regulations;

(c) The applicant, if an individual; or any of the stockholders holding more than five percent of the stock of the corporation, any of the officers and directors, if the applicant be a corporation; or any of the partners, including limited partners, if the applicant be a partnership; and the manager or other person principally in charge of the operation of the business, have

(i) Been convicted of any crime involving dishonesty, fraud, or deceit, unless such conviction occurred at least ten years prior to the date of the application, or,

(ii) Been convicted of any offense constituting a felony under the criminal code statutes of this state, unless such conviction occurred at least ten years prior to the date of the application and the applicant has not had subsequent convictions of any nature in any court of competent jurisdiction including subsequent misdemeanor convictions for crimes under the criminal statutes of this state.

(d) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the town in conjunction therewith;

(e) The applicant has had a massage business, masseur, or other similar permit license denied, revoked, or suspended for any of the above causes by the city or any other state or local agency within ten years prior to the date of the application;

(f) The applicant, if an individual, or any of the officers and directors, if the applicant be a corporation; or any of the partners, including limited partners, if the applicant be a partnership; and the

manager or other person principally in charge of the operation of the business, is not over the age of eighteen years; and

(g) The manager or other person principally in charge of the operation of the business has not successfully completed a resident course of study or learning of not less than one hundred hours from a recognized school where the theory, method, profession, or work of massage is taught;

(2) The police chief, upon denying an application, shall state his reasons in writing, specifying the particular grounds for such denial. (1986 Code, § 5-607)

9-708. Issuance or denial of masseur's permit. The police chief shall issue a masseur's permit within sixty days of receipt of the application unless he finds that:

(1) The correct permit fee has not been tendered to the town, and, in case of a check or bank draft, honored with payment upon presentation;

(2) The applicant has:

(a) Been convicted of any crime involving dishonesty, fraud, or deceit, unless such act occurred at least ten years prior to the date of the application, or,

(b) Been convicted of any offense constituting a felony under the criminal code statutes of this state, unless such conviction occurred at least ten years prior to the date of the application and the applicant has had no subsequent convictions of any nature in any court of competent jurisdiction including subsequent misdemeanor convictions for crimes under the criminal statutes of this state.

(3) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith;

(4) The applicant has had a massage business, masseur, or other similar permit or license denied, revoked or suspended for any of the above causes by the city or any other state or local agency within five years prior to the date of the application;

(5) The applicant is not over the age of eighteen years; and

(6) The applicant has not successfully completed a resident course of study or learning of not less than one hundred hours from a recognized school where the theory, method, profession or work of massage is taught.

(7) The applicant is not free from all communicable diseases. (1986 Code, § 5-608)

9-709. Display of permits. The massage business permittee shall display his permit, and that of each and every masseur employed in the establishment, in an open and conspicuous place on the premises of the massage business. (1986 Code, § 5-609)

9-710. Massage business permit fee. The permit fee for a massage business shall be five hundred and no/100 dollars (\$500.00) per year or any part thereof. (1986 Code, § 5-610)

9-711. Masseur's permit fee. The permit fee for masseurs shall be one hundred and no/100 dollars (\$100.00) per year or any part thereof. (1986 Code, § 5-611)

9-712. Renewal of permit. Each permit shall expire on January 1 of each year. Permits may be renewed upon new applications filed as per § 9-704 and § 9-705 herein.

In processing a renewal application, the police chief shall be entitled to consider all elements of his previous examination in addition to such other examinations as he may deem necessary. (1986 Code, § 5-612)

9-713. Revocation or suspension of permit. Any massage business or masseur's permit issued under this chapter shall be subject to suspension or revocation by the police chief for violation of any provision of this chapter, or for any grounds that would warrant the denial of issuance of such permit in the first place. The chief, upon such revocation or suspension, shall state his reasons in writing, specifying the particular grounds for such revocation or suspension. (1986 Code, § 5-613)

9-714. Appeal. Any applicant or holder of a permit issued under the provisions of this chapter, which application or permit has been denied, revoked, or suspended by order of the police chief, shall have the right to appeal such order of denial, revocation or suspension to the town council within ten days after the date on which such order is hand delivered to the applicant or permittee, or deposited in the United States mail, postage prepaid, addressed to the applicant or permittee with a return receipt requested. Neither return of the requested receipt nor receipt by any particular person shall be deemed necessary nor affect the ten-day period within which the applicant or permittee shall have the right to appeal.

An appeal shall be made by filing a notice of appeal within the said ten-day period with the city recorder. The perfecting of such appeal shall not suspend the order of denial, revocation or suspension of such permit. Said appeal shall be heard by the council within a reasonable time from and after the date of filing thereof. The council shall conduct a hearing, written notice of the time, place, and grounds thereof being mailed to the applicant or permittee not less than ten days prior to the said hearing, unless timely notice be waived by the applicant or permittee. The strict rules of evidence shall not apply, but the applicant or permittee shall have the right to the assistance of counsel and to the reasonable presentation of witnesses and evidence. The council shall make its order affirming or overruling the denial, revocation or suspension of such

permit within ten days from and after the date on which the hearing on said appeal is concluded. Appeal from the decision of the council shall be to the Chancery Court of Smith County. (1986 Code, § 5-614)

9-715. Keeping up records. Every person who operates a massage business or practices or provides a massage shall at all times keep an appointment book in which the name and address of each and every patron shall be entered, together with the time, date and place of service, and the service provided. Such appointment book shall be available at all times for inspection by the police chief or his authorized representatives. (1986 Code, § 5-615)

9-716. Transfers prohibited. No massage business and masseur permits are transferrable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee name therein. (1986 Code, § 5-616)

9-717. Notification of changes. Every massage business permittee shall report immediately to the city recorder any and all changes of ownership or management of the massage business, including but not limited to changes of manager or other person principally in charge, stockholders holding more than five percent of the stock of the corporation, officers, directors and partners; any and all changes of name, style or designation under which the business is to be conducted; any and all changes of business address or telephone numbers where the business is to be conducted; and any and all changes or transfers of masseurs employed in the business whether by new or renewed employment, discharge or termination, or otherwise.

Every masseur shall report immediately to the city recorder any and all changes of employment, whether by new or renewed employment, discharge or termination, or otherwise, giving the name and address of the former employer, if any, and the name and address of the new employer, if any. (1986 Code, § 5-617)

9-718. Sanitation and safety requirements. All premises used by permittees hereunder shall be periodically inspected by the police chief or his authorized representatives for safety of the structure and adequacy of plumbing, ventilation, heating and illumination. The walls shall be clean and painted with washable, mold resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patients shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy white paper may be substituted for sheets provided that such paper is changed for every patron. No massage service or practice shall be carried on within any cubicle, room, booth, or any area

within a massage establishment which is fitted with a door capable of being locked. Nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. (1986 Code, § 5-618)

9-719. Advertising. No person shall publish, or distribute, or cause to be published or distributed, any advertising matter or business identification card that states or depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than a massage as defined in § 9-702. (1986 Code, § 5-619)

9-720. Supervision. A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one person who qualifies as a masseur on the premises at all times while the establishment is open. The permittee shall personally supervise the business, and shall not violate, or permit others to violate, any applicable provision of this chapter. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee. (1986 Code, § 5-620)

9-721. Treatment or massage given to person of opposite sex prohibited. No person giving a massage as defined herein shall perform such service or give such treatment to a person of the opposite sex. (1986 Code, § 5-621)

9-722. Persons under age eighteen prohibited on the premises. No person shall permit any person under the age of eighteen years to come or remain on the premises of any massage business establishment, as masseur, employee, or patron. (1986 Code, § 5-622)

9-723. Alcoholic beverages prohibited on the premises. No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed, provided, or kept, any alcoholic beverage on the premises of any massage business. (1986 Code, § 5-623)

9-724. Employment of masseurs. No person shall employ as a masseur any person unless said employee has obtained and has in effect a permit issued pursuant to this chapter. (1986 Code, § 5-624)

9-725. Cost of inspection. In the event the chief of police shall deny any permit required under this chapter, such portion of any fee required shall be retained by the town as may be reasonably necessary to help defray the expense of investigation, inspection, etc. (1986 Code, § 5-625)

9-726. Inspection required. The police chief or his authorized representatives shall from time to time make inspection of each massage business establishment for the purposes of determining that the provisions of this chapter are fully complied with. (1986 Code, § 5-626)

9-727. Rules and regulations. The police chief or his authorized representatives may make and enforce reasonable rules and regulations not in conflict with but to carry on the intent of this chapter. (1986 Code, § 5-627)

9-728. Exceptions. The provisions of this chapter shall not apply to hospitals, nursing homes, sanitarium, or persons holding an unrevoked certificate to practice the healing arts under the laws of the state, or persons working under the direction of any such persons or in any such establishment, nor shall this chapter apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the state. (1986 Code, § 5-628)

CHAPTER 8

WRECKER SERVICE STANDARDS POLICY

SECTION

- 9-801. Purpose.
- 9-802. Policy.
- 9-803. Call lists.
- 9-804. Applications.
- 9-805. Annual renewal.
- 9-806. Inspection.
- 9-807. Equipment.
- 9-808. Classification of wreckers.
- 9-809. Storage facilities.
- 9-810. Services and procedures.
- 9-811. General regulations.

9-801. Purpose. The purpose of this chapter is to establish policy, procedures, and regulations for members of the Town of South Carthage concerning wrecker service. (Ord. #115, Oct. 1988)

9-802. Policy. It is the policy of the Town of South Carthage to utilize only those wrecker services whose equipment, procedures and services conform to the following rules and regulations. The chief of police and mayor shall be the final authority in all policies, procedures, and regulations governed by this order. (Ord. #115, Oct. 1988)

9-803. Call lists. The chief of police or mayor shall maintain a call list for each wrecker class. (A, B, C, & D).

(1) Class "B" wreckers may be listed on both "A" and "B" class list upon request.

(2) Class "C" wreckers may be listed on all three (3) lists (A, B, & C) upon request if the wrecker meets the standards for that class.

(3) Class "D" vehicles will be listed only as a Class "D." Class "D" vehicles can not be substituted for a Class "A" wrecker except in special cases or owner's request (G.O. 465, III, E.). (Ord. #115, Oct. 1988)

9-804. Applications. (1) Wrecker service proprietors wishing to have their service included on the call list shall be established within the corporation limits of South Carthage.

(2) Any wrecker service utilized by the Town of South Carthage shall be properly licensed and insured.

(3) Wrecker service owners with a felony record will not be allowed on the Town of South Carthage call list.

(4) All wrecker and storage facilities shall be inspected by the department and a certificate of insurance filed before being placed on the Town of South Carthage call list.

(5) Insurance must be sufficient to compensate for any loss of or damage to property entrusted to the wrecker service.

(a) Minimum vehicle liability amounts.

(i) Class A and D \$300,000.

(ii) Class B \$500,000.

(iii) Class C \$750,000.

(b) Garage keepers liability--to cover loss by fire, theft, etc.

(6) Wrecker service operators shall have insurance agents submit a certificate of coverage to the Town of South Carthage. (Ord. #115, Oct. 1988)

9-805. Annual renewal. (1) Certificates of insurance must be submitted to the Town of South Carthage prior to the renewal date.

(2) Insurance carriers shall notify the Town of South Carthage immediately if a policy is canceled.

(3) The owner of the wrecker service shall make written notification of any changes in insurance coverage (i.e., changing companies, vehicles, etc.), to the Town of South Carthage within ten (10) days prior to the change. (Ord. #115, Oct. 1988)

9-806. Inspection. (1) The Town of South Carthage shall insure that all wreckers and storage facilities are inspected annually prior to expiration of insurance certificates. This inspection shall include the checking of equipment, insurance, tow and storage rates, etc.

(2) The Town of South Carthage may inspect wrecker services any time circumstances warrant an inspection.

(3) After the completion of each inspection, the Town of South Carthage shall inform the chief of police or mayor whether the wrecker service will be added to or deleted from the call list. (Ord. #115, Oct. 1988)

9-807. Equipment. (1) Preferably, wrecker services will have at least two (2) units capable of highly efficient performance at the scene of an accident.

(2) Emergency equipment.

(a) At least one (1) functional, amber-colored, rotor-beam type light shall be mounted on the top of the wrecker. No other color will be approved by the department. All emergency flashers and directional lights showing to the front must be amber in color.

(b) Sirens on wreckers or service trucks are prohibited.

(3) The following additional equipment is required:

(a) At least one (1) heavy-duty push broom;

(b) Flood lights mounted at a height sufficient to illuminate the scene at night;

- (c) One (1) shovel;
 - (d) One (1) axe;
 - (e) One (1) pinchbar, prybar, or crowbar;
 - (f) One (1) set of bolt cutters;
 - (g) Minimum of one (1) 20 lbs. Class ABC Underwriter Laboratory approved fire extinguisher.
- (4) The appearance of wreckers shall be reasonably good with equipment painted.
- (5) (a) All tow trucks shall display the firm's name, address, and phone number. Such information shall be painted on or permanently affixed to both sides. All lettering shall be at least three (3) inches high.
- (b) Magnetic signs will not be permitted.
- (6) Wrecker services shall be responsible for carrying the equipment necessary for removal of glass and other debris from highways following each accident. The wrecker operator is responsible for utilizing the equipment for such removals.
- (7) A "grandfather clause" will be implemented for those wrecker services carried on the call list prior to January 1, 1989. This provision allows existing services to observe former requirements on equipment.
- (8) The "grandfather clause" does not relieve wrecker companies from the requirements of minimum insurance standards or other revisions mandated by this order.
- (9) Effective January 1, 1989, any new wrecker company applying for placement on the Town of South Carthage call list, or any service removed from the list for a period of more than thirty (30) days and requesting reinstatement, will be regulated by all requirements set forth in this order.
- (10) Effective January 1, 1989, all wrecker companies on (Ord. #115, Oct. 1988)

9-808. Classification of wreckers. (1) Class A. For towing passenger cars, pick-up trucks, small trailers, etc.

- (a) The tow truck chassis shall have a minimum manufacturer's capacity of one (1) ton (10,000 lbs. G. V. W. R.);
 - (b) Individual boom capacity of not less than four (4) tons;
 - (c) Individual power winch pulling capacity of not less than four (4) tons;
 - (d) One-hundred (100) feet or more of 3/8 inch cable on each drum;
 - (e) Belt-type cradle tow plate or tow sling to pick up vehicles; cradle of tow plate to be equipped with safety chain;
 - (f) Dollies.
- (2) Class B. For towing medium size trucks, trailers, etc.
- (a) The tow truck chassis shall have a minimum manufacturer's capacity of one and one-half (1 ½) tons (18,000 G.V.W.R.).

(b) Boom specifications.

(i) Double booms so constructed as to permit splitting; each boom to operate independently or jointly; individual boom capacity of no less than eight (8) tons and individual power winch pulling capacity of no less than eight (8) tons; or

(ii) Single boom with no less than a sixteen (16) ton capacity and a power winch pulling capacity of no less than sixteen (16) tons.

(c) Two-hundred (200) feet or more of 7/16 inch or larger cable on each drum.

(d) Cradle tow plate or tow sling to pick up vehicle; cradle of tow plate to be equipped with safety chain.

(3) Class C. For towing large trucks, road tractors and trailers and trailers.

(a) The tow truck chassis shall have a minimum manufacturer's capacity of not less than three (3) tons (30,000 G.V.W.R.).

(b) Boom specifications.

(i) Double boom so constructed as to permit splitting; each boom to operate independently or jointly; individual boom capacity of no less than twelve and one-half (12 ½) tons and individual power winch pulling capacity of no less than twelve and one-half (12 ½) tons; or,

(ii) Single boom with no less than a twenty-five (25) ton capacity and a power winch pulling capacity of no less than twenty-five (25) tons.

(c) Two hundred (200) feet or more of 9/16 inch or larger cable on each drum.

(d) Airbrakes so constructed as to lock wheels automatically upon failure.

(4) Class D. Vehicle transporters designed to tow or carry passenger cars, pick-up trucks, classification includes "wheel lift" and "car carrier" or "rollback" type vehicle transporters.

(a) Wheel lift wreckers possessing equipment capable of lifting the vehicle by the wheels only with nothing touching the vehicle body.

(i) Wheel lift wreckers shall meet all Class "A" requirements (§ 9-808(1)), excluding the belt-type cradle tow plate or tow sling.

(ii) Safety restraint straps (nylon straps with ratchets or the equivalent), shall be provided to secure the towed vehicle tires into the wheel lift forks.

(b) Car carrier vehicle transporters.

(i) The truck chassis shall have minimum manufacturer's capacity of one (1) ton (10,000 lbs. G.V.W.R.);

(ii) Two (2) lift cylinders, minimum three (3) inch bore;

- (iii) Individual power winch pulling capacity of not less than four (4) tons;
- (iv) Fifty (50) feet or more of 5/16 inch or larger cable on winch drum;
- (v) Two (2) safety chains for securing vehicle to carrier bed;
- (vi) Carrier bed shall be a minimum of sixteen (16) feet in length and a minimum of eighty-four (84) inches in width inside side rails.
- (vii) Cab protector, constructed of solid steel or aluminum, that extends a minimum of ten (10) inches above the height of the bed. (Ord. #115, Oct. 1988)

9-809. Storage facilities. (1) Wrecker services must be equipped to provide a lot or building for proper, safe, and secure storage.

(a) The storage facility must be located in close proximity to the wrecker service.

(b) The wrecker service shall be responsible for the storage safekeeping, and prevention of vandalism of all vehicles and contents towed for the Town of South Carthage.

(c) The storage facility shall be secured by a fence or natural barrier sufficient to deter trespassing or vandalism.

(d) The storage facility shall be staffed or available for access, between the hours of 8 A.M. and 5 P.M., Monday through Friday, excluding legal holidays.

(e) The storage area shall be of sufficient size to accommodate all vehicles towed by the wrecker service for the Town of South Carthage.

(2) The chief of police or mayor will be notified of all vehicles which are towed at the request of the department that are held over thirty (30) days.

(3) Violation of any of the above requirements or regulations shall be cause for suspension or removal from the Town of South Carthage call list. (Ord. #115, Oct. 1988)

9-810. Services and procedures. (1) Wreckers shall be available for immediate response twenty-four (24) hours a day.

(a) They must respond in a reasonable length of time (as determined by the requesting officer), or the next scheduled wrecker will be called and the first one will lose his turn.

(b) The responding wrecker(s) must be one displaying the firm's name as called for by the Town of South Carthage.

(c) Wrecker services cannot refer a call to another wrecker company or substitute another company's wrecker to avoid a turn on the Town of South Carthage Police Department.

(2) Wrecker service operators shall not perform repair work on towed vehicles without the owner's written request.

(3) Hold orders placed by Town of South Carthage Police Department on vehicles stored for any reason shall be honored by the wrecker establishment.

(4) When no hold order is placed, the vehicle shall be released to the owner upon proof of ownership and when the necessary financial transactions between vehicle owner and wrecker service are completed.

(5) Wrecker service operators shall transport a vehicle to any location requested by the owner/operator after financial obligations have been finalized.

(6) Calls received by wreckers shall be cleared through the Town of South Carthage before the wrecker proceeds to the scene even if the owner calls the wrecker direct. No wrecker shall remove a wrecked vehicle without it being investigated by a law enforcement agency.

(7) Soliciting at the scene is prohibited by the owner, operator, or representative of any wrecker service.

(8) Amber lights may be used while proceeding to, at, and when towing from the scene. When and how the lights are to be used is left to the discretion of the wrecker operator or the policy of the wrecker service.

(9) When a wrecker company receives a call for a Class "C" wrecker it will not affect the wrecker service's status on either the "A" or "B" class lists.

(10) All wreckers shall be prohibited from chasing or running wrecks without a bona fide call from the Town of South Carthage or request from the owner.

(11) (a) If wrecker operators desire to be off-duty for any length of time, they shall inform the Town of South Carthage to avoid losing their turn on the call list.

(b) Upon returning, the wrecker operator will be placed back on the rotating list.

(12) Wrecker operators who fail to answer a call will lose the call. If two (2) calls are missed, an investigation will be made by the chief of police or mayor and suspension or removal will be considered.

(13) Wrecker companies are restricted to a maximum of two (2) telephone numbers on the Town of South Carthage call list. "Call-waiting" and "call-forwarding" are recommended; pagers/beepers are not allowed.

(14) Operators refusing a call, or failing to respond promptly to a call, may be removed from the call list.

(15) When multiple cars are involved and multiple wreckers are called:

(a) The first wrecker arriving at the scene will tow the car causing the greatest traffic hazard which will be determined by the South Carthage Police Department.

(b) If a requested wrecker arrives first, the wrecker will help remove vehicles causing traffic hazard from roadway, then pick up the requested tow.

(c) If a wrecker service has two (2) wreckers, two (2) vehicles may be towed without loss of turn on the rotation, provided both wreckers can respond simultaneously.

(16) Only one (1) wrecker service shall be called to any one (1) vehicle accident. If additional equipment or recovery vehicles are needed to adequately complete a tow (i.e. tractor-trailer rollover or difficult auto recovery) discretion of the wrecker service should be used in deciding what and whose additional equipment will be required.

The severity of the situation and the estimated response time of additional equipment will be weighed by the officer at the scene, who is the deciding authority.

(17) (a) Current tow and storage rates shall be posted in a conspicuous place at the wrecker service location and listed with the Town of South Carthage. Any change of rates shall be forwarded to the Town of South Carthage no later than ten (10) days prior to the proposed change.

(b) A chronological record of vehicles towed and charges of calls given from Town of South Carthage rotation list shall be maintained and opened to the chief of police or mayor for inspection.

(18) Towing rates of each class will be stipulated (a wrecker operator who uses a Class "C" or Class "B" wrecker to tow a vehicle in a lower classification must charge towing rates equitable to other wrecker services towing in that classification).

(19) The Town of South Carthage shall remove from the call list any wrecker service whose tow rates are excessive when compared against other wrecker services providing the same services in the same general area.

(20) The vehicle owner/operator shall be responsible for payment of towing and related service charges. Payment shall be rendered prior to delivery or release of the vehicle by the towing company. (Ord. #115, Oct. 1988)

9-811. General regulations. (1) Owners will not be permitted to operate wrecker equipment under more than one company name out of the same location.

(2) Wrecker companies shall not be permitted to operate more than one (1) wrecker service in the same zone.

(3) All wrecker service operators are expected to be familiar with and comply with the traffic laws of the Town of South Carthage.

(4) Wrecker services shall abide by all rules and regulations of the Town of South Carthage.

(5) Failure to meet the foregoing requirements will prevent wreckers from being placed on the Town of South Carthage call list.

(6) Violation of any of the above requirements or regulations shall be cause for suspension or removal from the Town of South Carthage call list after investigation is made by the department.

(7) The Town of South Carthage shall investigate all complaints of services not requested and/or unfair charges.

(a) Any valid complaints will result in suspension of towing privileges for a period determined by the chief of police or mayor or removal from the call list.

(b) Copies of complaints, investigative reports, and recommended action will be forwarded to the chief's office.

(c) Owners/operators of wrecker services will be advised in writing of suspension or removal by the chief of police or mayor.

(d) Wrecker services desiring an appeal of a decision may do so through the chief's office.

(8) If the owner of a vehicle believes that the vehicle was towed and/or charged unjustly, a complaint may be filed with the chief of police or mayor. The Town of South Carthage shall conduct an investigation into the complaint. If the investigation reveals that the said vehicle was towed and/or charged unjustly, the owner shall have his vehicle released to him without charge or for an amount established by the Town of South Carthage.

(9) This policy should not be construed in any way to conflict with state law. (Ord. #115, Oct. 1988)

CHAPTER 9

EPHEDRINE AND EPHEDRINE RELATED PRODUCTS

SECTION

- 9-901. Sales regulated.
- 9-902. Definitions.
- 9-903. Accessibility of products.
- 9-904. Exemptions.
- 9-905. Employee training.
- 9-906. Registration of purchases.
- 9-907. Penalties for failure to comply.

9-901. Sales regulated. No person shall sell or deliver, or attempt to sell or deliver, in any single retail sale, a package that contains more than one hundred tablets of any product that contains any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or any number of packages that contain a combined total of three (3) or more grams of ephedrine, pseudoephedrine, or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients. (as added by Ord. #04-258, April 2004)

9-902. Definitions. (1) The use of the terms "ephedrine," "pseudoephedrine," or "phenylpropanolamine" in this chapter shall include the salts, optical isomers, or salts of optical isomers of ephedrine, pseudoephedrine and phenylpropanolamine.

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

(3) The use of the term "consumer accessible shelving" in this chapter shall mean any area of a retail establishment other than a product display area behind a counter where the public is not permitted, or within a locked display case or within 6 feet of a register located on a checkout counter. (as added by Ord. #04-258, April 2004)

9-903. Accessibility of products. All packages of any product containing ephedrine, pseudoephedrine or phenylpropanolamine, whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall not be displayed and offered for sale in any retail establishment on consumer-accessible shelving. (as added by Ord. #04-258, April 2004)

9-904. Exemptions. This chapter shall not apply as follows:

(1) To any product labeled pursuant to federal regulation for use only in children under twelve years of age;

(2) To any products that the state department of health, upon application of a manufacturer, determines has been formulated in such a way as to effectively prevent its use in the illicit manufacture of methamphetamine;

(3) To any animal feed products containing ephedrine, or naturally occurring or herbal ephedra or extract of ephedra, pseudoephedrine, or phenylpropanolamine; and

(4) To the sale or delivery of any product containing ephedrine, pseudoephedrine, or phenylpropanolamine pursuant to the lawful prescription of a person authorized by state law to prescribe such products. (as added by Ord. #04-258, April 2004)

9-905. Employee training. Any person who is considered the general owner or operator of a retail establishment where products containing ephedrine, pseudoephedrine, or phenylpropanolamine are available for sale who violates §§ 9-901 or 9-902 of this chapter shall not be penalized pursuant to this chapter if such person documents that an employee training program was in place to provide the employees with information on the local, state and federal regulations regarding ephedrine, pseudoephedrine and phenylpropanolamine, and that the employees had completed the training program. (as added by Ord. #04-258, April 2004)

9-906. Registration of purchases. (1) Any retail establishment that sells or delivers, or attempts to sell or deliver, to a person any product containing ephedrine, pseudoephedrine, or phenylpropanolamine whether as the sole active ingredient or in combination products that have less than therapeutically significant quantities of other active ingredients, shall require such person to show proper identification and to sign a register.

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

(a) The specific quantity of ephedrine, pseudoephedrine or phenylpropanolamine purchased;

(b) The signature of the purchaser;

(c) The name and residential or mailing address of the purchaser; other than a post office box number;

(d) The number of the purchaser's motor vehicle operator's license or other proper identification at the time of the purchase;

(e) The date of such purchase; and

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

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

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

(5) This section shall not apply to the sell or delivery of any product containing ephedrine, pseudoephedrine, or phenylpropanolamine by a licensed pharmacy upon a pharmacist making a good faith determination that the purchase of the product is for a legitimate medical purpose. (as added by Ord. #04-258, April 2004)

9-907. Penalties for failure to comply. It is a civil offense to fail to comply with the foregoing regulations. Any violation of these sections is punishable by civil penalty of up to \$50.00. Each day a violation continues under § 9-902 above shall constitute a separate offense. (as added by Ord. #04-258, April 2004)