

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

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.
5. CABLE TELEVISION.
6. ADULT ORIENTED BUSINESSES.

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

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

**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. (1994 Code, § 9-101)

**9-102. License required for sale.** No person, firm or corporation shall conduct any sale of the type defined in § 9-101 without applying to the recorder for a license therefor as prescribed by Tennessee Code Annotated, §§ 6-55-401 through 6-55-412. (1994 Code, § 9-102)

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<sup>1</sup>Municipal code references

Building and residential codes: title 12.

Junkyards: title 13, chapter 2.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Parades regulated: § 16-110.

Zoning: title 14.

**CHAPTER 2****PEDDLERS, ETC.**<sup>1</sup>**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. (1994 Code, § 9-201)

**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. (1994 Code, § 9-202)

**9-203. Application for permit.** Applicants for a permit under this chapter must file with the town 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.

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<sup>1</sup>Municipal code references

Trespassing: title 11, chapter 7.

Wholesale beer tax: title 5, chapter 4.

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

(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 inches (2") 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 properly evaluate 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. (1994 Code, § 9-203)

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

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

(3) If, on the other hand, the report indicates that the moral reputation and business responsibility of the applicant are satisfactory the town recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The town recorder shall keep a permanent record of all permits issued. (1994 Code, § 9-204)

**9-205. Appeal.** Any person aggrieved by the action of the chief of police and/or the town 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. (1994 Code, § 9-205)

**9-206. Bond.** Every permittee shall file with the town 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, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1994 Code, § 9-206)

**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. (1994 Code, § 9-207)

**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. (1994 Code, § 9-208)

**9-209. Exhibition of permit.** Permittees are required to exhibit their permits at the request of any policeman or citizen. (1994 Code, § 9-209)

**9-210. Policemen to enforce.** It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1994 Code, § 9-210)

**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 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 town 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. (1994 Code, § 9-211)

**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. (1994 Code, § 9-212)

**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. (1994 Code, § 9-213)

## 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 town 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. (1994 Code, § 9-301)

**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. (1994 Code, § 9-302)

**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. (1994 Code, § 9-303)

**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. (1994 Code, § 9-304)

## CHAPTER 4

### POOL ROOMS

#### SECTION

9-401. Prohibited in residential areas.

9-402. Hours of operation regulated.

9-403. Minors to be kept out; exception.

**9-401. 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. (1994 Code, § 9-401)

**9-402. 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 between the hours of 2:00 A.M. and 6:00 A.M. (Ord. #02-05-13, June 2002)

**9-403. Minors to be kept out; exception.** It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, 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. (1994 Code, § 9-403)

**CHAPTER 5****CABLE TELEVISION****SECTION**

9-501. To be furnished under franchise.

**9-501. To be furnished under franchise.** Cable television service shall be furnished to the Town of Gordonsville and its inhabitants under franchise granted to Rifkin Acquisition Partnership LLC by the Board of Mayor and Aldermen of the Town of Gordonsville. The rights, powers, duties and obligations of the Town of Gordonsville and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.<sup>1</sup>

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<sup>1</sup>For complete details relating to the cable television franchise agreement see Ord. #02-02-11 dated Feb. 2002 in the office of the recorder.



## CHAPTER 6

### ADULT ORIENTED BUSINESSES

#### SECTION

- 9-601. Definitions.
- 9-602. Restrictions.
- 9-603. Regulations.
- 9-604. Zoning.

**9-601. Definitions.** (1) "Adult arcade." Any place which the public is permitted or invited wherein coin-operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore." Any commercial establishment which, as one of its principal purposes, offers for sale or rental for any forms of consideration any one or more of the following:

- (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- (b) Instruments, devices, or paraphernalia which are designated for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental or material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore or an adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the above any or all of the described materials.

(3) "Adult cabaret." A nightclub, bar restaurant, or similar commercial establishment which regularly features:

- (a) Persons who appear in a state of nudity or semi-nudity;
- (b) Live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities"; or
- (c) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified anatomical areas."

(4) "Adult motel." A hotel, motel, inn or similar commercial establishment which offers:

- (a) Accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films,

motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and has signage or advertising visible from the public right-of-way which suggests the availability of this type of adult photographic reproductions;

(b) Offers a sleeping room for rent for a period of time less than ten (10) hours; or

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

(5) "Adult motion picture theater." A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" excluding, however, "R" and "NC-17" rated movies.

(6) "Adult theater." A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons in a state of nudity or semi-nude for live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(7) "Adult video store." Any commercial establishment which, as one of its principal purposes, offers for sale or rental for any forms of consideration any one (1) or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

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

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental or material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore or an adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the above any or all of the described materials.

(8) "Establishment." Includes and means any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not sexually oriented business, to any sexually oriented business;

(c) The additions of any sexually oriented business operation to any other business or sexually oriented business; or

(d) The relocation of any sexually oriented business.

(9) "Permittee" and/or "licensee." A person in whose name a permit or license to operate a sexually oriented business has been issued, as well as any person listed as an applicant on the application for a permit or license.

(10) "Nude model studio." Any place where a person who appears in a state of nudity, or displays "specified anatomical areas," is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who may pay money or any other forms of consideration.

(11) "Nudity" or "state of nudity." The exposure of, or the appearance of, a human bare buttock, anus, male genitals, female genitals or the female breast.

(12) "Person." An individual, proprietorship, partnership, corporation, association or any entity.

(13) "Semi nude." A state of dress in which the clothing covers no more than the genitals, pubic region, areola of the female breast, as well as portions of the body covered by supporting straps or other devices.

(14) "Sexual encounter center." A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration, physical contact between persons of the same or opposite sex, to include such activities, but not limited to wrestling and tumbling, where any of the participants are in a state of nudity or semi nude.

(15) "Sexually oriented business." An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio or a sexual encounter center.

(16) "Specified anatomical areas." The male genitals and/or the vulva or more intimate parts of the female genitals, anus, or female breast.

(17) "Specified sexual activities." Includes and means any of the following:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;

(b) Sex acts, normal or perverted, actual or simulated, including intercourse, sodomy, oral copulation or masturbation; or

(c) Excretory functions, as part of or in connection with any of the activities set forth in subsections (a) and (b) above.

(18) "Substantial enlargement." The increase in floor areas occupied by the sexually oriented business by more than twenty-five percent (25%) of the original floor as it existed at passage of the ordinance comprising this chapter.

(19) "Transfer of ownership or control." Includes and means any of the following:

(a) The sale, lease or sub-lease of the sexually oriented business;

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except by transfer by bequest or other operation of law upon the death of the person possessing ownership or control. (Ord. #03-12-15, Dec. 2003)

**9-602. Restrictions.** All sexually oriented businesses are hereby prohibited within the corporate limits of the Town of Gordonsville. (Ord. #03-12-15, Dec. 2003)

**9-603. Regulations.** Notwithstanding § 9-602 of this chapter, and in the event a constitutional challenge to the ordinance comprising this chapter is made and succeeded in a court, the following provisions stated in §§ 9-603, 9-604 and 9-605 shall apply.

(1) This part applies to all sexually oriented business establishments, such as, but not limited to:

- (a) Adult arcades;
- (b) Adult bookstores;
- (c) Adult video stores;
- (d) Adult cabarets;
- (e) Adult motels;
- (f) Adult motion picture theaters;
- (g) Adult theaters;
- (h) Nude model studios; and
- (i) Sexual encounter centers.

(2) No sexually oriented business shall be operated or maintained in the town limits within two thousand five hundred feet (2,500'), measured in a straight line from the closest points from the property line to property line of:

- (a) A public or private elementary or secondary school;
- (b) Licensed day care center;
- (c) Church;
- (d) Public recreation facility;
- (e) Playground;
- (f) Park.

(3) No sexually oriented business shall be operated or maintained in the town limits within two thousand feet (2,000'), measured in a straight line from the closest point from property line to property line of any lot devoted to residential use, or to any residential zoning district boundary line.

In the event the location is adjacent to a lot equal to, or exceeding five (5) acres in size, devoted to a residential use within an agricultural zoning district, the spacing requirements will be three thousand feet (3,000'), measured in a straight line from the closest points from property line to property line.

(4) No sexually oriented business shall be operated or maintained in the town limits within two thousand feet (2,000'), measured in a straight line from the closest points from property line to property line of another sexually oriented business establishment.

(5) The determined distances are spacing requirements and are not subject to variances by the Gordonsville Board of Zoning Appeals. (Ord. #03-12-15, Dec. 2003)

**9-604. Zoning.** (1) No sexually oriented business establishments shall be allowed within the Town of Gordonsville, except in areas zoned pursuant to the Gordonsville zoning regulations.

(2) The determined zoning is not subject to variances by the Gordonsville Board of Zoning Appeals. (Ord. #03-12-15, Dec. 2003)