

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. "Going out of business" sales.
- 9-102. Storing or displaying merchandise, etc. outside of buildings.

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. (1978 Code, § 5-102)

9-102. Storing or displaying merchandise, etc. outside of buildings. All chattels, merchandise, goods or other personal property shall be stored in buildings or other permanent enclosures except under the following conditions:

- (1) When stored temporarily not exceeding business hours.
- (2) Goods that are stored in the regular course of business not exceeding twenty-four (24) hours.
- (3) Goods and chattels that are not considered inventory for resale.

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.

(4) Any motor vehicle, mobile farm machinery, mobile home or house trailer or other such mobile property when such chattels are operable.

(5) When a certificate of exemption has been issued upon good cause by the building inspector or town engineer. (1978 Code, § 5-103)

CHAPTER 2

PEDDLERS, ETC.

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
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9-201. Permit required. It shall be unlawful for any peddler, canvasser, or solicitor, or transient merchant to ply his trade within the Town of Mountain City 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. (1978 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. (1978 Code, § 5-202)

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.
- (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 (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 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 Town of Mountain City to cover the cost of investigating the facts stated therein. (1978 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 town 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 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 chief's 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 section 9-206. The town recorder shall keep a permanent record of all permits issued. (1978 Code, § 5-204)

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 board of mayor and aldermen. 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. (1978 Code, § 5-205)

9-206. Bond. Every permittee shall file with the town recorder a surety bond running to the Town of Mountain City 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 the 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 Town of Mountain City that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the town 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. (1978 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 town 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. (1978 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 such operation might impede or inconvenience the public use of such 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. (1978 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1978 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. (1978 Code, § 5-210)

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

(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 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. (1978 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. (1978 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. (1978 Code, § 5-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.

9-302. Prerequisites for a permit.

9-303. Exhibition of permit.

9-304. Receipts, expenses, and cash disposition report.

9-305. Criminal liability.

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 board of mayor and aldermen 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. (1978 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall present each application for a permit to the board of mayor and aldermen for approval after ascertaining that the following facts 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. (1978 Code, § 5-302)

9-303. 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. (1978 Code, § 5-303)

9-304. Receipts, expenses, and cash disposition report. Within five working days after completion of the solicitation efforts, applicants will submit to the town recorder, 210 South Church Street, Mountain City, Tennessee, a

written report certifying the amounts of money collected, expenses incurred, and the exact disposition of the remaining funds collected. This report is to be filed on the reverse side of the application/permit form furnished by the Town of Mountain City. (1978 Code, § 5-304)

9-305. Criminal liability. Any person who willfully and knowingly violates any provisions of this chapter or who shall willfully and knowingly give false or incorrect information to the town recorder in filing statements or reports required by this chapter, whether such reports or statements are verified or not, shall be guilty of a misdemeanor. (1978 Code, § 5-305)

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Taxicab franchise and privilege license required.
- 9-402. Requirements as to application and hearing.
- 9-403. Liability insurance or bond 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 conducted 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 town and has a currently effective privilege license. (1978 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. 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 the 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 service; present the

¹Municipal code reference
Privilege taxes: title 5.

application to the board of mayor and aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board of mayor and aldermen 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 board of mayor and aldermen 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 taxicab 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. (1978 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 title 55, chapter 12, Tennessee Code Annotated. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insurer to both the insured and the recorder of the Town of Mountain City. (1978 Code, § 5-403)

9-404. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1978 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. 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. (1978 Code, § 5-405)

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

At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1978 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1978 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 chief of police. (1978 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 chief of police:

- (1) Makes written application to the chief of police.
- (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 town 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. (1978 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The board of mayor and aldermen 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 section 9-409. (1978 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 Town of Mountain City for the purpose of obtaining patronage for their cabs. (1978 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. (1978 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. (1978 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. (1978 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 unreasonably disturb the peace, quiet, and tranquility of the town in any way. (1978 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. (1978 Code, § 5-416)

9-417. Fares. All taxicab fares shall be established under such rate schedules as the board of mayor and aldermen may from time to time adopt by appropriate ordinance.¹ (1978 Code, § 5-417)

¹Administrative ordinances are of record in the office of the town recorder.

CHAPTER 5

GARAGE SALES, ETC.

SECTION

- 9-501. Intent of chapter.
- 9-502. Permit required for holding sales.
- 9-503. Permit limitations.
- 9-504. Application for permit.
- 9-505. Permit fee.
- 9-506. Conditions to be met.
- 9-507. Signs.
- 9-508. Right of access for inspection.
- 9-509. Violations.

9-501. Intent of chapter. It is the intent of these regulations to regulate the term and frequency of personal property sales (such as garage sales, porch sales, basement sales, yard sales, and other similar types of sales) so as not to disturb or disrupt the residential environment of the area. It is not the intent of this chapter to seek control of sales by individuals selling a few of their household or personal items. (1978 Code, § 5-501)

9-502. Permit required for holding sales. Any person desirous of holding a personal property sale, (such as, but not limited to a garage sale, basement sale, porch sale, or yard sale) resale of used household, clothing or any personal property items which are owned by the residents of the premises, shall obtain a permit therefor from the recorder's office. (1978 Code, § 5-502)

9-503. Permit limitations. (1) Any such permit issued shall be for a term not exceeding three (3) consecutive calendar days.

(2) The hours of sale shall be from 9:00 A. M. to 9:00 P. M.

(3) Permits shall be limited to three (3) per calendar year, per residential dwelling. (1978 Code, § 5-503)

9-504. Application for permit. The application for a permit shall be made to the recorder upon forms furnished by the Town of Mountain City. (1978 Code, § 5-504)

9-505. Permit fee. The permit fee for each sale shall be three dollars (\$3.00). (1978 Code, § 5-505)

9-506. Conditions to be met. (1) The permit will be valid only upon a proper showing and finding by the town that proper safety and environmental precautions have been taken for the public.

(2) The permit shall be posted on the premises in a conspicuous place so as to be seen by the public and town police. (1978 Code, § 5-506)

9-507. Signs. Advertising signs shall not exceed twelve (12) inches by twelve (12) inches and immediately after such sale terminates, all signs shall be removed. (1978 Code, § 5-507)

9-508. Right of access for inspection. Any police officer or other official designated by any town ordinance to make inspections under the licensing or regulating ordinances of the town or to enforce the same, shall have the right of entry to any premises showing evidence of a personal property sale for the purpose of enforcement or inspection and may close the premises for such a sale. (1978 Code, § 5-508)

9-509. Violations. Any person, association, or corporation conducting such sale without being properly licensed or who shall violate any of the terms and regulations of this chapter shall, upon conviction, be fined under the general penalty clause for this municipal code. (1978 Code, § 5-509)

CHAPTER 6

CABLE TELEVISION

SECTION

9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television shall be furnished to the Town of Mountain City and its inhabitants under franchise granted to Rifkin Communications Partners, L.P. by the board of mayor and aldermen of the Town of Mountain City, Tennessee. The rights, powers, duties and obligations of the Town of Mountain City and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹ (As added by Ord. #901, Nov. 1997)

¹For complete details relating to the cable television franchise agreement see Ord. #901 dated Nov. 1997 in the office of the city recorder.

CHAPTER 7

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-701. Definitions.
- 9-702. License required.
- 9-703. Application for license.
- 9-704. Standards for issuance of license.
- 9-705. Permit required.
- 9-706. Application for permit.
- 9-707. Standards for issuance of permit.
- 9-708. Fees.
- 9-709. Display of license or permit.
- 9-710. Renewal of license or permit.
- 9-711. Revocation of license or permit.
- 9-712. Hours of operation.
- 9-713. Responsibilities of the operator.
- 9-714. Prohibitions and unlawful sexual acts.
- 9-715. Penalties and prosecution.
- 9-716. Invalidity of part.
- 9-717, et seq. Reserved.

9-701. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment receiving at least 20% of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVD's, films and other electronic media which are distinguished or

characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below. "Adult bookstore" shall not include video stores whose primary business is the rental and sale of videos which are not distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by an means by patrons therein.

(5) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

(6) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the Town of Mountain City, Tennessee.

(7) "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

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

(9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance or specified sexual activities or exhibition and viewing of specified anatomical areas,

removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified sexual activities" means:

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

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered. (as added by Ord. #968, Jan. 2005)

9-702. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the Town of Mountain City without first obtaining a license to operate issued by the Town of Mountain City.

(2) A license may be issued for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

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

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this article must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (as added by Ord. #968, Jan. 2005)

9-703. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the Town of Mountain City. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five (5) percent of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past three (3) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time each applicant has been a resident of the Town of Mountain City, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

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

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the Mountain City Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the board of mayor and aldermen.

(4) Whenever an applicant is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of mayor and aldermen and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Johnson County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation

required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the police chief. (as added by Ord. #968, Jan. 2005)

9-704. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction with five (5) years immediately preceding the date of the application.

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

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-703 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-703 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

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

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Mountain City Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no

later than twenty (20) days after the date of the application. (as added by Ord. #968, Jan. 2005)

9-705. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief. (as added by Ord. #968, Jan. 2005)

9-706. Application for permit. (1) Any person desiring to secure a permit shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

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

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes, and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (i) The length of time the applicant has been a resident of the Town of Mountain City, or its environs, immediately preceding the date of the application.

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Mountain City Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional

thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any additional information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the police chief. (as added by Ord. #968, Jan. 2005)

9-707. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the Mountain City Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application. (as added by Ord. #968, Jan. 2005)

9-708. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (½) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (½) of the fee shall be returned. (as added by Ord. #968, Jan. 2005)

9-709. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Mountain City Police Department, or any person designated by the board of mayor and aldermen. (as added by Ord. #968, Jan. 2005)

9-710. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for the renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the total fees collected shall be returned.

(3) If the Mountain City Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (½) of the fee shall be returned.

(6) If the Mountain City Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief. (as added by Ord. #968, Jan. 2005)

9-711. Revocation of license or permit. (1) The police chief shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

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

(c) The operator or employee becomes ineligible to obtain a license or permit.

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

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

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

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Johnson County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before

the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #968, Jan. 2005)

9-712. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Mountain City Police Department, the Johnson County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate. (as added by Ord. #968, Jan. 2005)

9-713. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone number, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Mountain City Police Department at all reasonable times.

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

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of

determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Mountain City Police Department at all reasonable times.

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

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

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

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

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

This Adult-Oriented Establishment is Regulated by the Town of Mountain City Municipal Code. Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

(as added by Ord. #968, Jan. 2005)

9-714. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (as added by Ord. #968, Jan. 2005)

9-715. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #968, Jan. 2005)

9-716. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (as added by Ord. #968, Jan. 2005)