

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

9-101. Required equipment and standards for all wreckers.

9-101. Required equipment and standards for all wreckers. All wreckers shall have and maintain additional equipment and standards as follows:

- (1) 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) A minimum of one (1) fully charged twenty pound (20 lb.), or two (2) fully charged ten pound (10 lb.) fire extinguisher(s) having an Underwriter's Laboratory rating of four (4) A:B:C: or more. The fire extinguisher(s) must be securely mounted on the towing vehicle;
 - (e) One (1) axe;
 - (f) One (1) set of bolt cutters;
 - (g) One (1) pinch bar, pry bar or crow bar;

¹Municipal code references

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

Junkyards: title 13, chapter 2.

Liquor and beer regulations: title 8.

Noise reductions: title 11, chapter 4.

Zoning: title 14.

(h) A minimum of one (1) fifty pound (50 lb.) bag of fluid absorption compound;

(i) Three (3) red emergency reflectors;

(j) One (1) red light bar. The towed vehicle must be capable of displaying all lights on the rear of the vehicle, while in tow. When this is not possible, a light bar must be attached to the rear most vehicle while in tow. The bar must consist of two (2) tail lamps, two (2) stop lamps and two (2) turn signals. All lights on the light bar must be fully operational.

(2) The appearance of all wreckers shall be reasonably good with equipment painted.

(3) All wreckers shall display the firm's name, address and phone number. Such information shall be painted on or permanently affixed on both sides of the towing vehicle. Such lettering shall be at least three inches (3") high. Magnetic signs are not permitted as a substitute.

(4) In accordance with Tennessee Code Annotated, § 55-8-170(c), it is the responsibility of the wrecker operator to have equipment for removing glass and other debris from the accident scene and to remove such debris from the highway. The wrecker operator shall be responsible for removing all glass and other debris from the street or highway. Failure to do so may result in suspension or revocation of the wrecker operator's permit.

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.

SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers, street barkers and solicitors.
- 9-206. Restrictions on transient vendors.
- 9-207. Display of permit.
- 9-208. Suspension or revocation of permit.
- 9-209. Expiration and renewal of permit.
- 9-210. Violation and penalty.

9-201. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one (1) of the following conditions:

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

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.

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

(4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the town, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(6) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

9-202. Exemptions. The terms of this chapter shall neither apply 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.

¹State law references

Tennessee Code Annotated, § 62-30-101, *et seq.* contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from Tennessee Code Annotated, § 62-30-101(3). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay a tax of fifty dollars (\$50.00) for each fourteen (14) day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, § 67-4-709(b).

9-203. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter.

9-204. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the recorder by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

(b) A brief description of the type of business and the goods to be sold.

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

(d) The name and permanent address of each person who will make sales or solicitations within the town.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

(f) Tennessee state sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of fifty dollars (\$50.00). The permit shall expire fourteen (14) days from the date the permit is issued. There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the recorder, the recorder shall submit to the chief of police a copy of the application form and the permit.

9-205. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

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

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

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

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

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

9-206. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-207. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-208. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the recorder for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in subsection (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder 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.

9-209. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire after fourteen (14) days. The permit may be renewed for fifty dollars (\$50.00).

9-210. Violation and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

CHAPTER 3

TAXICABS¹

SECTION

- 9-301. Taxicab franchise and privilege license required.
- 9-302. Requirements as to application and hearing.
- 9-303. Liability insurance required.
- 9-304. Revocation or suspension of franchise.
- 9-305. Mechanical condition of vehicles.
- 9-306. Cleanliness of vehicles.
- 9-307. Inspection of vehicles.
- 9-308. License and permit required for drivers.
- 9-309. Qualifications for driver's permit.
- 9-310. Revocation or suspension of driver's permit.
- 9-311. Drivers not to solicit business.
- 9-312. Parking restricted.
- 9-313. Drivers to use direct routes.
- 9-314. Taxicabs not to be used for illegal purposes.
- 9-315. Miscellaneous prohibited conduct by drivers.
- 9-316. Transportation of more than one passenger at the same time.

9-301. 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. (1998 Code, § 9-501)

9-302. 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 recorder or 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 board of mayor and aldermen 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 application to the board of mayor and

¹Municipal code reference
Privilege taxes: title 5.

aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board 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 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. (1998 Code, § 9-502, modified)

9-303. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of the liability insurance requirements contained in Tennessee Code Annotated, § 65-15-110. The insurance policy 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. (1998 Code, § 9-503, modified)

9-304. 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. (1998 Code, § 9-504)

9-305. 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. (1998 Code, § 9-505)

9-306. Cleanliness of vehicles. All taxicabs operated in the town 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. (1998 Code, § 9-506)

9-307. 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. (1998 Code, § 9-507)

9-308. 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. (1998 Code, § 9-508)

9-309. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he pays an annual permit fee of fifty cents (\$0.50) and complies with the following to the satisfaction of the chief of police:

- (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 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 minor traffic offenses.
- (7) Is familiar with the state and local traffic laws. (1998 Code, § 5-509)

9-310. 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 § 9-309. (1998 Code, § 9-510)

9-311. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the town for the purpose of obtaining patronage for their cabs. (1998 Code, § 9-511)

9-312. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the town 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. (1998 Code, § 5-512)

9-313. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1998 Code, § 9-513)

9-314. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1998 Code, § 9-514)

9-315. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the town in any way. (1998 Code, § 9-515)

9-316. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1998 Code, § 9-516)

CHAPTER 4

RECREATIONAL VEHICLE CAMPGROUND

SECTION

9-401. Campgrounds.

9-401. Campgrounds. RV and tent campgrounds are not permitted inside town limits.

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 New Tazewell and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of New Tazewell 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 (1998 Code, § 9-901)

¹The cable television franchise agreement is available in the office of the recorder.

CHAPTER 6

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-601. Definitions.
- 9-602. License required.
- 9-603. Application for license.
- 9-604. Standards for issuance of license.
- 9-605. Permit required.
- 9-606. Application for permit.
- 9-607. Standards for issuance of permit.
- 9-608. Fees.
- 9-609. Display of license or permit.
- 9-610. Renewal of license or permit.
- 9-611. Hours of operation.
- 9-612. Responsibilities of the operator.
- 9-613. Prohibited activities.
- 9-614. Location restrictions.
- 9-615. Penalties and prosecution.

9-601. 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 bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind 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, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(2) "Adult cabaret" is defined to mean an establishment which features as a principal 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.

(3) "Adult-entertainment" means any exhibition of any adult-oriented motion picture, 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 of 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.

(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 any means by patrons therein.

(5) "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.

(6) "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.

(7) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the Town of New Tazewell, Tennessee.

(8) "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.

(9) "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.

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

(11) "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. (2)"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 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. (Ord. #251, Aug. 2006)

9-602. 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 New Tazewell without first obtaining a license to operate issued by the Town of New Tazewell.

(2) A license may be issued only 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 chapter must submit an application for a license within one hundred twenty (120) days of the passing of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) 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. (Ord. #251, Aug. 2006)

9-603. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the recorder, Town of New Tazewell. The application shall be filed in triplicate with and dated by the recorder.

(2) The application for a license shall be upon a form provided by the recorder. An 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 percent (5%) 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 address, 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 applicant's 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, town 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 therefor, 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 town 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 inches by two inches (2" x 2") 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 leasees subletting to applicant;
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany application;

(l) The length of time each applicant has been a resident of the Town of New Tazewell, 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's business name, address, phone number, and representative's name;

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Town of New Tazewell, the recorder 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 recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Wherever an application is denied or held for further investigation, the recorder 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 town attorney shall institute suit for declaratory judgment in the Chancery Court of Claiborne 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 recorder. (Ord. #251, Aug. 2006)

9-604. 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 within 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 § 9-602 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-602 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 Town of New Tazewell has investigated the applicant's qualifications to be licensed. The results of that

investigation shall be filed in writing with the recorder no later than twenty (20) days after the date of the application. (Ord. #251, Aug. 2006)

9-605. 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 recorder. (Ord. #251, Aug. 2006)

9-606. Application for permit. (1) Any person desiring to secure a permit shall make application to the recorder. The application shall be filed in triplicate with and dated by the recorder.

(2) The application for a permit shall be upon a form provided by the recorder. 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 town 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 therefor 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 town 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 inches by two inches (2" x 2") of the applicant;
- (i) The length of time the applicant has been a resident of the Town of New Tazewell, 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 Town of New Tazewell, the town 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 town 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 town 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 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 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 town. (Ord. #251, Aug. 2006)

9-607. 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 Town of New Tazewell has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the town not later than twenty (20) days after the date of the application. (Ord. #251, Aug. 2006)

9-608. 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 (1/2) 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 (1/2) of the fee shall be returned. (Ord. #251, Aug. 2006)

9-609. 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, the New

Tazewell Police Department, or any person designated by the board of mayor and aldermen. (Ord. #251, Aug. 2006)

9-610. 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 recorder. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the recorder. A copy of the application for renewal shall be distributed promptly by the recorder and to the operator. The application for renewal shall be a form provided by the recorder 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 (1/2) of the total fees collected shall be returned.

(3) If the Town of New Tazewell is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with recorder. (Ord. #251, Aug. 2006)

9-611. 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 Town of New Tazewell, the New Tazewell Police Department, or such other persons as the board of mayor and aldermen may designate. (Ord. #251, Aug. 2006)

9-612. 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 numbers, social security number, date of employment and termination of 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 the Town of New Tazewell upon demand 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 employee 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 area 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 Town of New Tazewell 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 New Tazewell Municipal Ordinances. 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." (Ord. #251, Aug. 2006)

9-613. Prohibited activities. (1) No operator, entertainer or employee of an adult-oriented establishment, either on the premises or in relation to the person's role as an operator, entertainer, or employee of an adult-oriented establishment, shall permit to be performed, offer to perform, perform, or allow patrons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

(3) 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 inches (18") above the immediate floor level and removed at least six feet (6') from the nearest entertainer, employee, or customer.

(4) (a) No employee or entertainer, while on the premises of an adult-oriented establishment, may:

- (i) Engage in sexual intercourse;
- (ii) Engage in deviant sexual conduct;
- (iii) Appear in a state of nudity; or
- (iv) Fondle such person's own genitals or those of another.

(b) For the purpose of this section, "nudity" means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(5) If the license holder operates an escort bureau, such bureau shall not be operated as a sexually-oriented escort bureau as defined in this part.

(6) No permit holder of an escort bureau shall conduct oneself as a sexually-oriented escort as defined in this part.

(7) No license holder shall advertise that such license holder offers sexual stimulation or sexual gratification as defined in this part.

9-614. Location restrictions. Allowed in an Industrial Zoning District (M-1). (Ord. #251, Aug. 2006)

9-615. 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. (Ord. #251, Aug. 2006)

CHAPTER 7

GARAGE SALES

SECTION

- 9-701. Definitions.
- 9-702. Property permitted to be sold.
- 9-703. Date of sales.
- 9-704. Limited number of sales per year.
- 9-705. Hours of operation.
- 9-706. Display of sale property.
- 9-707. Advertising.
- 9-708. Violation and penalty.

9-701. Definitions. For the purpose of this chapter, the following terms are defined and shall be construed as follows:

(1) "Garage sales" shall be the offering for sale or exchange, to the public of any personal property of any kind or description at a sale held on privately-owned residential property. For the purpose of this chapter, garage sales include all sales of personal property, whether entitled "garage sales," "lawn sales," "yard sales," "attic sales," "porch sales," "room sales," "backyard sales," "patio sales," "flea market," or "rummage sales."

(2) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in a normal course of living or in maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(3) "Residential property" is any real estate, lot or tract in the Town of New Tazewell which is used primarily for residential purposes and zoned residential. (Ord. #2010-283, May 2010)

9-702. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (Ord. #2010-283, May 2010)

9-703. Date of sales. Garage sales are only allowed on Fridays, Saturdays, Sundays and town holidays. As used in this section, town holidays include the following holidays: New Year's Day; Martin Luther King, Jr.'s birthday; President's Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving Day; and Christmas Day. (Ord. #2010-283, May 2010)

9-704. Limited number of sales per year. No resident citizen of the Town of New Tazewell shall conduct or allow to be conducted any sale of items

of personal property more often than three (3) times per year, per residence, with each sale limited to the three (3) day duration specified in § 9-803. (Ord. #2010-283, May 2010)

9-705. Hours of operation. Garage sales shall be conducted between the hours of 8:00 A.M. and 6:00 P.M. (Ord. #2010-283, May 2010)

9-706. Display of sale property. Personal property offered for sale may only be displayed within a residence, in a garage, a carport, a driveway, or in a front, side or rear yard. No personal property offered for sale at a garage sale shall be displayed in or on any public right-of-way. All personal property must be removed from display by 8:00 P.M. each day of the garage sale and stored in a permanent type building. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. However, an unlicensed and inoperable vehicle may not be displayed for more than thirty (30) calendar days in a twelve (12) month period. (Ord. #2010-283, May 2010)

9-707. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a garage sale:

(a) Two (2) signs permitted. Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence or residential site where the garage sale is being conducted.

(b) Directional signs. Two (2) signs of not more than two (2) square feet each are permitted, provided that the premises on which the garage sale is conducted is not on a major thoroughfare, and written permission to erect such signs is received from the property owner(s) on whose property such signs are to be placed.

(2) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the date a garage sale is to commence.

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities. (Ord. #2010-283, May 2010)

9-708. Violation and penalty. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.