TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. CLOSING OUT SALES.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. MECHANICAL AMUSEMENT DEVICES.
7. WRECKER SERVICE.
8. ADVERTISING SIGNS, ADMINISTRATION AND ENFORCEMENT.
9. SECONDHAND DEALERS.
10. MASSAGE PARLORS AND TECHNICIANS.
11. PROFESSIONAL TREE TRIMMERS AND LANDSCAPING.
12. CABLE TELEVISION.
13. ADULT-ORIENTED ESTABLISHMENTS.
14. OUTDOOR STORAGE AND DISPLAY OF MERCHANDISE; SIDEWALK SALES, GARAGE SALES AND YARD SALES.
15. MOBILE FOOD VEHICLES AND PUSHCARTS.
16. SHORT-TERM RESIDENTIAL RENTAL UNITS.

CHAPTER 1

CLOSING OUT SALES

SECTION

9-102. License required for sale.
9-103. Application for license.
9-104. Issuance of license.
9-105. Renewal license.
9-106. Application fee.
9-108. Display of license - books and records.

¹Municipal code references
Building, plumbing, wiring and housing regulations: title 12.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
9-101. Definitions. The following terms wherever used or referred to in §§ 9-101--9-112 shall have the following meanings unless a different meaning appears from the context:

(1) "Sales" -- The sale or any offer to sell to the public goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, wind-up, discontinuance, conclusion or abandonment of the business in connection with such sale. It shall also include any sale advertised to be a "fire sale," "reorganization sale," "creditor's sale," "trustees sale," "adjustment sale," "liquidation sale," "insurance salvage sale," "administrator's sale," "insolvent sale," "mortgage sale," "assignee's sale," "adjusters sale," "receiver's sale," "loss- of-lease sale," "wholesaler's closeout sale," "creditor's committee sale," "forced out-of-business sale," "going-out-of-business sale," "removal sale," and any and all sales advertised in such manner as to reasonably convey to the public that upon disposal of the stock of goods on hand, the business will cease and be discontinued.

(2) "Publish," "publishing," "advertisement," "advertising" shall include any and all means of every kind of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertising, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio announcement and any and all means including oral, written or printed.

(3) "License" -- A license issued pursuant to §§ 9-101--9-112.

(4) "Licensee" -- Any person to whom a license has been issued pursuant to §§ 9-101--9-112.

(5) "Recorder" -- The city recorder or such official designated by the city ordinance, to be appointed by the city.

(6) "Inspector" -- An inspector designated by the city manger. (1975 Code, § 5-101)

9-102. License required for sale. No person, firm or corporation shall hereafter publish or conduct any sale of the type defined in § 9-101 without a license therefor. (1975 Code, § 5-102)

9-103. Application for license. The recorder is hereby authorized and empowered to supervise and regulate sales or special sales defined in § 9-101 and to issue appropriate licenses or license therefor. Such licenses or license shall be issued in the discretion of the recorder upon the written application in a form approved by the recorder and verified by the person who, or by an officer
of the corporation which intends to conduct such sale. Such application shall contain a description of the place where such sale is to be held, the nature of the occupancy, whether by lease or sublease and the effective date of the termination of such occupancy, the means to be employed in publishing such sale, together with the proposed language comment in any advertisements. Such application shall further contain, as part thereof, an itemized list of the goods, wares and merchandise to be offered for sale, the place where such stock was purchased or acquired, and if not purchased, the matter of such acquisition. Such application shall contain any additional information as the recorder may require. (1975 Code, § 5-103)

9-104. Issuance of license. Upon receipt of such application and payment of the fee hereinafter prescribed, the recorder shall cause the same to be examined and investigated. If after such investigation the recorder is satisfied as to the truth of the statements contained in such application and as to the form and content of the advertising to be used in connection with such sale, he may then issue a license permitting the publication and conduct of such sale. Such license shall be for a period of not exceeding thirty (30) days. (1975 Code, § 5-104)

9-105. Renewal license. Upon satisfactory proof by the licensee that the stock itemized in the original application has not been disposed of, the recorder may renew such license for an additional thirty (30) day period upon payment of the prescribed renewal fee. Such proof for a renewal license shall be furnished in a form to be issued by the recorder. Said renewal application shall contain an itemized list of stock on hand and the same shall be verified by the applicant. The recorder shall cause the same to be examined and investigated, and if satisfied, as to the truth of the statements therein contained, the recorder may issue a renewal license for a period not exceeding thirty (30) days, provided, however, that not more than three (3) such renewals shall be granted for any such sale for the same location within a period of one (1) year from date of issuance of the first license. (1975 Code, § 5-105)

9-106. Application fee. Upon filing an original application or a renewal application for a license to advertise and conduct a sale or special sale, as hereinbefore defined, the applicant shall pay to the city a fee in the sum of twenty-five dollars ($25.00). If any application or renewal application be disapproved, said payment shall be forfeited to the city as and for the cost of investigating the statements contained in such application or renewal application. (1975 Code, § 5-106)

9-107. Contents of advertising. All advertisements or advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which a license was issued and the
wording of such advertisements shall not vary from the wording as indicated in the application. Such advertising shall contain a statement in these words and no others:

"Sale held pursuant to Permit No._____ of City of Red Bank granted the _____ day of ______" and in such blank spaces shall be indicated the permit number and the requisite dates. (1975 Code, § 5-107)

9-108. Display of license - books and records. Upon commencement of any sale, as hereinbefore defined, the license issued by the recorder shall be prominently displayed near the entrance of the premises. A duplicate of the original application and stock list pursuant to which license was issued, shall at all times be available to the recorder or to inspectors designated by the city manager and the license shall permit such inspectors to examine all merchandise in the premises for comparison with stock list. Suitable books and records as prescribed by the recorder shall be kept by the licensee and shall be at all times available to the inspectors. At the close of each business day the stock list attached to the application shall be revised and those items disposed of during such day shall be marked thereon. (1975 Code, § 5-108)

9-109. Rules and regulations. The recorder is further empowered to make such rules and regulations for the conduct and advertisement of such sale or special sale as in his opinion will serve to prevent deception and to protect the public. (1975 Code, § 5-109)

9-110. Suspension or revocation of license. The recorder shall have power to suspend or revoke at any time any license granted in accordance with §§ 9-101--9-112. (1975 Code, § 5-110)

9-111. Violations of sales regulations. Any person who shall violate, neglect or refuse to comply with any of the provisions of §§ 9-101--9-112, shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment not exceeding thirty (30) days or both, such fine and imprisonment. (1975 Code, § 5-111)

9-112. Exemptions from regulations. The provisions of §§ 9-101--9-112 shall not apply to or affect the following persons:

(1) Persons acting pursuant to an order or process of court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officers such as sheriffs and marshals.

(3) Duly licensed auctioneers, selling at auction. (1975 Code, § 5-112)
CHAPTER 2

PEDDLERS, ETC.¹

SECTION
9-201. Permit required.  It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor 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. (1975 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. (1975 Code, § 5-202)

9-203. Application fee.  At the time of the filing of the application, a fee of twenty-five dollars ($25.00) shall be paid to the municipality to cover the cost of investigating the facts stated in the application and in order to cover the administrative expenses of the collection of the state minimum business tax. (1975 Code, § 5-203)

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

¹Municipal code reference
Privilege taxes: title 5.
(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city manager shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city manager shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city manager shall keep a permanent record of all permits issued. (1975 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city manager in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the city manager within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The city manager 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. (1975 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city manager a surety bond running to the municipality in the amount of one thousand dollars ($1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1975 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places,
9-208. **Use of streets.** No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1975 Code, § 5-208)

9-209. **Exhibition of permit.** Permittees are required to exhibit their permits at the request of any policeman or citizen. (1975 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. (1975 Code, § 5-210)

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

- 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.
- Any violation of this chapter.
- Conviction of any crime or misdemeanor.
- Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city manager in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at 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 city manager may suspend a permit pending the revocation hearing. (1975 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. (1975 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 a period of fourteen (14) days only. An application for a renewal shall be made substantially in the same form as an original application. (1975 Code, § 5-213)
CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.
9-302. Prerequisites for a permit.
9-303. Denial of a permit.
9-304. Exhibition of permit.
9-305. Soliciting in street prohibited.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city manager 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. (1975 Code, § 5-301)

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

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

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

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

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

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1975 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1975 Code, § 5-303)
9-304. **Exhibition of permit.** Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1975 Code, § 5-304)

9-305. **Soliciting in street prohibited.** No person shall stand on or in proximity to a street or roadway, for the purpose of slowing or stopping any vehicle to solicit or to accept contributions, charitable or otherwise, from the occupants thereof, nor for the purpose of soliciting or accepting contributions for charitable or other purposes from the occupants of any vehicle already slowed or stopped. (1975 Code, § 5-305)
CHAPTER 4

TAXICABS¹

SECTION
9-402. Certificate of public convenience and necessity required.
9-403. Application for certificate.
9-406. Indemnity bond or liability insurance required.
9-408. Suspension and revocation of certification.
9-409. Appeals.
9-410. Taxicab driver's license.
9-411. Application for driver's license.
9-412. Examination of applicant.
9-413. Police investigation of applicant.
9-414. Consideration of application.
9-415. Application required to be rejected, when.
9-416. Issuance of license; duration.
9-417. Display of license.
9-418. Driver's conduct.
9-419. Extension and revocation of license.
9-420. Failure to comply with city, state and federal laws.
9-421. Records of licenses.
9-422. Vehicles; equipment and maintenance.
9-423. Designation of taxicabs.
9-424. Taximeter required.
9-425. Rates of fare; rate card required.
9-426. Receipts.
9-427. Refusal of passenger to pay legal fare.
9-428. Solicitation, acceptance and discharge of passengers.
9-429. Fees.
9-430. Open stands; establishment; use.
9-431. Call box stands; establishment; use.
9-432. Prohibitions of other vehicles.
9-433. Taxicab service.
9-435. Holder's records and reports.

¹Municipal code reference
Privilege taxes: title 5.
9-37. Police department; duty to enforce chapter.

9-401. Definitions. The following words and phrases when used in this chapter shall have the meanings as set out herein:

(1) "Call box stand." A place alongside a street, or elsewhere where the city manager has authorized a holder of a certificate of public convenience and, necessity to install a telephone or call box for the taking of calls and the dispatching of taxicabs.

(2) "Certificate." A certificate of public convenience and necessity issued by the City of Red Bank authorizing the holder thereof to conduct a taxicab business in said city.

(3) "Cruising." The driving of a taxicab on the streets, alleys, or public places of the City of Red Bank in search of or soliciting prospective passengers for hire.

(4) "Driver's license." The permission granted by the City of Red Bank to a person to drive a taxicab upon the streets of said city.

(5) "Holder." A person to whom a certificate of public convenience and necessity has been issued.

(6) "Manifest." A daily record prepared by a taxicab driver of all trips made by said driver showing the time and place of origin, destination, number of passengers, and the amount of fare of each trip.

(7) "Open stand." A public place alongside the curb of a street or elsewhere in the City of Red Bank which has been designated by the city manager as reserved exclusively for the use of taxicabs.

(8) "Person." An individual, corporation, partnership, association or other legal entity.

(9) "Rate card." A card issued by the city manager for display in each taxicab which contains the rates of fare then in force.

(10) "Street." Any street, alley, avenue, court, lane, or public place in the City of Red Bank and used by the public, whether actually dedicated to the public and accepted by the proper authorities or otherwise.

(11) "Taxicab." A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of not more than five (5) persons, exclusive of the driver, and not operated on a fixed route.

(12) "Taximeter." A meter instrument or device attached to a taxicab which measures mechanically the distance driven and the waiting time upon which the fare is based.

(13) "Waiting time." The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab in not in motion if due to any cause other than the request, act or fault of the passenger or passengers. (1975 Code, § 5-401)
9-402. **Certificate of public convenience and necessity required.**
No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of Red Bank without having first obtained a certificate of public convenience and necessity from the city. (1975 Code, § 5-402)

9-403. **Application for certificate.** An application for the certificate shall be filed with the city manager upon forms provided by the city. The application shall be verified under oath and shall furnish the following information:

1. The name and address of the applicant.
2. Marital status.
3. The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transactions or acts resulting in said judgments.
4. The experience of the applicant in the transportation of passengers.
5. Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate.
6. The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.
7. The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
8. Such other information as the City of Red Bank may require. (1975 Code, § 5-403)

9-404. **Public hearing.** Upon the filing of an application, the city manager shall fix a time and place for a public hearing thereon before the board of commissioners of the City of Red Bank. Notice of such hearing shall be given to the applicant and to all persons to whom a certificate of public convenience and necessity have heretofore been issued. Due notice shall also be given to the general public by posting a notice of such hearing at the city hall, and, at the branch post office within the city. Any interested person may file with the city manager a memorandum in the support of or in opposition to the issuance of a certificate. Failure to give notice in accordance herewith shall not invalidate any proceedings held hereunder. (1975 Code, § 5-404)

9-405. **Issuance of certificate.** If the board of commissioners finds that further taxicab service in the City of Red Bank is required by the public convenience and necessity and that the applicant is fit, willing, and, able to perform such public transportation and to conform to the provisions of this chapter and the rules promulgated by the city manager then the city manager, upon direction of the board of commissioners, shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under
said certificate and the date of issuance. Otherwise, the application shall be denied.

In making the above findings, the board of commissioners shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant. (1975 Code, § 5-405)

9-406. **Indemnity bond or liability insurance required.** No certificate shall be issued or continued in operation unless there is in full force and effect an indemnity bond or insurance policy covering each vehicle authorized in the amount of ten thousand dollars ($10,000) for bodily injury to any one person; in the amount of twenty thousand dollars ($20,000) for injuries to more than one person which were sustained in the same accident; and in the amount of five thousand dollars ($5,000) for property damages resulting from any one accident. Said bond or insurance policy shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, his servants, or agents. Said indemnity bond or insurance policy shall be filed in the office of the city manager. It shall be issued or executed by some public liability insurance company authorized to do business in the State of Tennessee which has been approved by the board of commissioners of the City of Red Bank, or approved for said board by the city attorney. Said indemnity bond or insurance policy shall contain the following minimum provisions:

1. That any person or persons who may recover final judgment for personal injury or property damages shall have a right of action on said bond or insurance policy in the event the owner or operator of the taxi does not pay the same within thirty (30) days after final judgment.

2. That said indemnity bond or insurance policy may not be canceled by either the insurer or the insured until after twenty (20) days written notice of intention to cancel is given the city manager of the City of Red Bank.

3. That said bond or insurance policy shall not be withdrawn from the office of the city manager within the space of one (1) year from cancellation.

4. That there shall be a continuing liability thereunder for the full amount of said bond or insurance policy, notwithstanding any recovery thereon.

5. That the insurer will not be relieved from liability on account of nonpayment of premium, failure to renew the license at the end of the year, nor for any act or omission of the named insured. (1975 Code, § 5-406)

9-407. **Transfer of certificate.** No certificate of public convenience and necessity may be sold, assigned, mortgaged, or otherwise transferred. Upon the death, or the cessation of business, of any holder, the certificate shall be surrendered to the city. (1975 Code, § 5-407)
9-408. **Suspension and revocation of certification.** A certification issued under the provisions of this chapter may be revoked or suspended by the city manager if the holder thereof has:

(1) Violated any of the provisions of this chapter.

(2) Discontinued operations for more than ninety (90) days.

(3) Violated any ordinances of the City of Red Bank, or the laws of the United States or the State of Tennessee, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard. (1975 Code, § 5-408)

9-409. **Appeals.** Any person who deems himself aggrieved by the action of the city manager in suspending or revoking, or in refusing to suspend or revoke any certificate, may appeal the decision by petition addressed to the board of commissioners and filed with the city manager not more than ten (10) days following the manager's action. Such appeal shall be heard at the next regular meeting of the board of commissioners following the filing of the petition with the city manager. The action of the board of commissioners upon the appeal shall be final. (1975 Code, § 5-409)

9-410. **Taxicab driver's license.** No person shall operate a taxicab for hire upon the streets of the City of Red Bank, and no person who owns or controls a taxicab shall permit it to be so driven, and, no taxicab licensed by the City of Red Bank shall be so driven at any time for hire, unless the driver of said taxicab shall have first obtained and shall have then in force a taxicab driver's license issued under the provisions of this chapter. (1975 Code, § 5-410)

9-411. **Application for driver's license.** An application for a taxicab driver's license shall be filed with the city manager on the forms provided by the City of Red Bank. The application shall be verified under oath and shall contain the following information:

(1) The names and addresses of four (4) residents of the City of Red Bank who have known the applicant for a period of twelve (12) months or more and who will vouch for his sobriety, honesty, and good moral character.

(2) The experience of the applicant in the transportation of passengers.

(3) The educational background of the applicant.

(4) The name, address, age, height, color of eyes and hair, length of residence in the city, and marital status of the applicant.

(5) A concise history of the applicant's previous residences and employments for five (5) years preceding the making of the application.

(6) The number of the applicant's current motor vehicle special chauffeur's permit issued by the State of Tennessee.
(7) Each application shall be accompanied by a certificate from a reputable physician of the City of Red Bank certifying that, in his opinion, the applicant is not afflicted with any disease or infirmity which might make him an unsafe or unsatisfactory driver; and, by three (3) recent photographs of himself of a size which may be easily attached to the permit or license. One (1) photograph shall be attached to the license or permit issued, and the remaining two (2) shall be filed with the city. The photograph attached to the license or permit shall be so attached that it cannot be removed and another photograph substituted without detection. (1975 Code, § 5-411)

9-412. Examination of applicant. Before any application is finally passed upon by the city manager the applicant shall be required to pass a satisfactory examination as to his knowledge of the traffic laws and ordinances of the City of Red Bank; his general knowledge of the streets of the city; his competency as a driver of a motor vehicle; and, he shall be required to exhibit a current motor vehicle special chauffeur's permit issued by the State of Tennessee. (1975 Code, § 5-412)

9-413. Police investigation of applicant. The police department shall conduct an investigation of each applicant for a taxicab driver's license and a report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the city manager. In connection with the examination, the chief of police, or his agent, may require the applicant to demonstrate his skill and ability to safely handle a motor vehicle by driving it through a crowded section of the city or any other prescribed test course accompanied by an inspector designated by the chief of police. (1975 Code, § 5-413)

9-414. Consideration of application. The city manager shall, upon receipt of an application and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the city commission to offer evidence why his application should be reconsidered. This request shall be in writing and filed with the city manager and shall be heard at the next regular meeting of the commission after said filing. (1975 Code, § 5-414)

9-415. Application required to be rejected, when. The city manager shall be required to reject any application when any one of the following facts is established:

(1) If the applicant has not attained his eighteenth birthday.
(2) When the applicant has been convicted of a felony.
(3) When the applicant has been convicted of a misdemeanor, other than a traffic violation, at any time within two (2) years preceding the date of filing the application.
9-17

(4) When the applicant has been convicted of any three (3) misdemeanors, other than overtime parking, but including traffic violations, within two (2) years preceding the filing of the application.

(5) When the applicant fails to pass any examination given to him under the provisions of this chapter. (1975 Code, § 5-415)

9-416. Issuance of license; duration. Upon approval of an application for a taxicab driver's license, the city manager shall issue a license to the applicant which shall bear the name, address, color, age, signature and photograph of the applicant. Such license shall be in effect for the remainder of the calendar year. A license for every calendar year thereafter shall issue upon the payment of the required annual fee hereinafter set forth, unless the license for the preceding year has been revoked. (1975 Code, § 5-416)

9-417. Display of license. Every driver licensed under this chapter shall post his driver's license in such a place as to be in full view of all passengers while said driver is operating the taxicab, whether in day or night. (1975 Code, § 5-417)

9-418. Driver's conduct. It shall be the duty of every person driving or operating a taxicab to be courteous and gentlemanly; to refrain from swearing, loud talking, or boisterous conduct; to drive his motor vehicle carefully and in full compliance with all traffic laws and ordinances and regulations and orders of the Red Bank police department or any of its members; to promptly answer all court notices, traffic violation notices or police notices; and, to deal honestly with the public and with his employer. No driver shall imbibe alcoholic beverages of any kind or to any extent while operating a taxicab within the corporate limits of this city, nor within six (6) hours prior to entering upon his duty as a taxicab driver. (1975 Code, § 5-418)

9-419. Extension and revocation of license. The city manager is hereby given the authority to suspend the driver's license issued under this chapter upon the driver's refusal or failure to comply with this chapter, said period of suspension to list for a period of not more than thirty (30) days. The city manager is also given authority to revoke any driver's license for failure to comply with the provisions of this chapter. However, a license may not be revoked unless the driver has received a notice and had an opportunity to present evidence in his behalf. Any person affected by such revocation shall have the right to appeal the decision of the city manager to the board of commissioners in the same manner as set forth in § 9-409 hereof. (1975 Code, § 5-419)

9-420. Failure to comply with city, state and federal laws. Every driver licensed under this chapter shall comply with all city, state and federal
laws. Failure to do so will justify the city manager in suspending or revoking a license. (1975 Code, § 5-420)

9-421. Records of licenses. The city manager shall keep a complete and public record of the issuance of each taxicab driver's license, and all renewals, suspensions, complaints, violations and revocations thereof, which record shall be filed with the original application for such permit, and which shall be open to public inspection during regular office hours. (1975 Code, § 5-421)

9-422. Vehicles; equipment and maintenance. Prior to the use and operation of any vehicle under the provisions of this chapter said vehicle shall be thoroughly examined and inspected by the police department and found to comply with such reasonable rules and regulations as may be prescribed by the city manager. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the city manager shall deem necessary therefor. When the police department finds that the vehicle has met the standards established by the city manager, the manager shall issue a license to that effect, which shall also state the authorized seating capacity of the vehicle, upon payment of the fee hereinafter set forth.

Every vehicle operating under this chapter shall be periodically inspected by the police department at such intervals as shall be established by the city manager to insure the continued maintenance of safe operating conditions.

Every vehicle operating under this chapter shall be kept in a clean and sanitary condition according to the rules and regulations promulgated by the city manager. (1975 Code, § 5-422)

9-423. Designation of taxicabs. Each taxicab shall bear on the outside of each rear door, in painted letters not less than three (3) inches nor more than five (5) inches in height, the name of the owner, and the city license number of such vehicle, and in addition, may bear an identifying design approved by the city.

No vehicle covered by the terms of this chapter shall be licensed whose color scheme, identifying design, monogram, or insignia used thereon shall, in the opinion of the city manager, conflict with or imitate that used on a vehicle or vehicles already operating under this chapter, or operating under an ordinance of another city geographically located so as to cause confusion or misunderstanding among the general public or in such a manner as to be misleading or tending to deceive or defraud the public. Also, if, after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram, or insignia thereof is changed so as to be, in the opinion of the city manager, in conflict with or an imitation of that used by any other person, owner or operator, in such a manner as to be misleading or tending to deceive
the public, the license or certificate covering such taxicab or taxicabs shall be suspended or revoked. (1975 Code, § 5-423)

9-424. **Taximeter required.** All taxicabs operating under the authority of this chapter shall be equipped with taximeters fastened in front of the passengers and visible to them at all time. After sundown, the face of the taximeter shall be illuminated. The taximeter shall be operated mechanically by a mechanism of standard design and construction driven either from the transmission or from one of the front wheels by a flexible and permanently attached driving mechanism. They shall be sealed at all points and connections which, if manipulated, would affect their correct reading and recording. Each taximeter shall have thereon a flag to denote when the vehicle is employed and when it is not employed. It shall be the duty of the driver to throw the flag of such taximeter into a nonrecording position at the termination of each trip. The said taximeter shall be subject to inspection from time to time by the department of police. Any inspector or other officer of said department is hereby authorized either on complaint of any person or without such complaint to inspect any meter and, upon discovery of any inaccuracy therein to notify the person operating said taxicab to cease operation. Thereupon said taxicab shall be kept off the highways until the taximeter is repaired and in the required working condition. (1975 Code, § 5-424)

9-425. **Rates of fare; rate card required.** No owner or driver of a taxicab shall charge any rate of fare in excess of the following schedule of rates based on a meter reading:

1. Forty-five cents for the first one-third of a mile or fraction thereof.
2. For each additional one-third mile or fraction thereof, ten cents.
3. For each 2 minutes of waiting time, ten cents.
4. For each trunk, one dollar.
5. Additional passengers: There shall be no charge for additional passengers.
6. Hand baggage: There shall be no charge for hand baggage.
7. Every taxicab operated under this chapter shall have a rate card setting forth the authorized rates of fares displayed in such a place as to be in view of all passengers. (1975 Code, § 5-425)

9-426. **Receipts.** A driver of any taxicab shall upon demand by the passenger render to such passenger a receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the owner, license number or motor number, amount of meter reading or charges and the date of the transaction. (1975 Code, § 5-426)

9-427. **Refusal of passenger to pay legal fare.** It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in
this chapter after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service. (1975 Code, § 5-427)

9-428. Solicitation, acceptance and discharge of passengers. The following regulations shall apply with respect to the solicitation, acceptance and discharge of passengers:

(1) Solicitation of passengers by driver. No driver shall solicit passengers for a taxicab except when sitting in the driver's compartment of said taxicab or while standing immediately adjacent to the curbside thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to his vehicle at all times when such vehicle is upon public streets, except that, when necessary a driver may be absent from his taxicab for not more than ten (10) consecutive minutes, and provided further that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle.

(2) Prohibitive solicitation. No driver shall solicit patronage in a loud or annoying tone of voice or by sign, nor shall he in any manner annoy any person or obstruct the movement of any person, or follow any person for the purpose of soliciting patronage.

(3) Receipt and discharge of passengers on sidewalk only. Drivers of taxicabs shall not receive passengers in the roadway but shall pull up to the right hand sidewalk as nearly as possible or in the absence of a sidewalk to the extreme right hand side of the road and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged either to the right or left hand sidewalk, or side of the roadway in the absence of a sidewalk.

(4) No driver shall cruise in search of passengers except in such areas and at such times as shall be designated by the city manager. Such areas and times shall only be designated when the city manager finds that taxicab cruising would not congest traffic or be dangerous to pedestrians and other vehicles.

(5) Solicitation of other common carrier passengers prohibited. No driver, owner, or operator shall solicit passengers at the terminal of any other common carrier, nor at any intermediate points along any established route of any of the common carriers.

(6) Additional passengers. No driver shall permit any other person to operate or ride in said taxicab unless the person or persons first employing the taxicab shall consent to the acceptance of the additional passenger or passengers. No charge shall be made for any additional passenger except when the additional passenger rides beyond the previous passenger's destination and then only for the additional distance so travelled.

(7) Restriction on number of passengers. No driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of the taxicab as stated in the license of said vehicle as issued by the city manager. A child in arms shall not be counted as a passenger.
Refusal to carry orderly passengers prohibited. No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so.

Prohibition of drivers. It shall be a violation of this chapter for any driver of a taxicab to solicit business for any motel or restaurant, or to attempt to divert the patronage from any one place of business to another. Neither shall such driver engage in selling intoxicating liquors nor solicit business for any house of ill repute or use his vehicle for any purpose other than the transporting of passengers.

Prohibition of passengers. It shall be unlawful for any driver of any taxicab to permit any person or persons to ride or stand upon any part of such vehicle while the same is in motion except upon the seats provided for passengers, and it shall be unlawful for any person to ride or stand upon such vehicle except upon said seats when the same is in motion. (1975 Code, § 5-428)

**9-429. Fees.** The following fees shall be charged and collected for the items hereinafter set forth, said fees to be paid into the general fund of the City of Red Bank and to cover the costs of supervision of taxicabs in the City of Red Bank, the inspection of said vehicles and the drivers thereof, and the general enforcement of this chapter. These fees shall be in addition to any privilege license prescribed by other ordinances of this city, and shall be in amounts as follows:

1. With each application for a certificate of public convenience and necessity, a fee of five dollars ($5.00).
2. For each vehicle licensed hereunder, the sum of one dollar ($1.00) per passenger seat of said vehicle per annum.
3. With each application for a taxicab driver's license, the sum of three dollars ($3.00). This fee shall cover the remainder of the calendar year in which issued, and shall be renewable on or before the 1st day of each calendar year thereafter upon payment of a like fee.
4. For each taximeter inspection, not exceeding two (2) per year, the sum of one dollar ($1.00).

All permits and licenses authorized by this chapter shall expire on December 31, of each year and may be renewed for the subsequent year upon payment of the prescribed fees to the City of Red Bank. (1975 Code, § 5-429)

**9-430. Open stands; establishment; use.** The board of commissioners of the City of Red Bank is hereby authorized and empowered to establish open stands in such place or places upon the streets of the City of Red Bank as it deems necessary for the use of taxicabs operated in the city. The board shall not create an open stand without taking into consideration the need for such stands by the companies and the convenience to the general public. The board shall prescribe the number of cabs that shall occupy such open stands. The board
shall not create an open stand in front of any place of business where the
abutting property owners object to the same or where such stand would tend to
create a traffic hazard.

Open stands shall be used by the different drivers on a first come, first
served basis. The driver shall pull on to the open stand from the rear and shall
advance forward as the cabs ahead pull off. Drivers shall stay within five feet
of their cabs. They shall not solicit passengers nor engage in loud or boisterous
talk while at an open stand. Nothing in this chapter shall be construed as
preventing a passenger from boarding the cab of his choice that is parked at
open stands. (1975 Code, § 5-430)

9-431. Call box stands; establishment; use. The board of
commissioners is hereby authorized and empowered to establish call box stands
upon the streets of Red Bank in such places as in its discretion it deems proper.
A holder desiring to establish a call box stand shall make written application to
the board. The applicant must attach to the application the written approval
of the abutting property owners of said space, consenting to the creation of such
stand. Upon the filing of the application the police department shall make an
investigation of the traffic conditions at said place and shall thereafter file their
written recommendation with the board. The board shall then either grant or
refuse the application. When a call box stand has been established as herein
provided, it shall be used solely by the holder to whom the same was granted
and his agents and servants and no other holder shall be permitted to use the
same. However, no holder shall obtain a permit for more than three (3) such
closed stands within the downtown business area.

A holder operating a call box stand as provided for in this chapter shall
be allowed to have on duty at such stand, a starter or other employee for the
purpose of assisting in the loading or unloading of passengers from cabs; for
receiving calls and dispatching cabs; and, for soliciting passengers at such stand.
The words "at such stand" shall mean that part of the sidewalk immediately
adjacent to and of equal length with such call box stand. It shall be unlawful for
any such starter or other employee to go beyond the area herein designated for
the purpose of soliciting passengers or assisting them in boarding such cabs.
(1975 Code, § 5-431)

9-432. Prohibitions of other vehicles. Private or other vehicles for
hire shall not at any time occupy the spaces upon the streets that have been
established as either open stands or call box stands. (1975 Code, § 5-432)

9-433. Taxicab service. All persons engaged in the taxicab business in
the City of Red Bank and operating under the provisions of this chapter shall
render an over-all service to the public desiring to use taxicabs. Holders of
certificates of public convenience and necessity shall maintain a central place
of business and keep the same open twenty-four (24) hours a day for the purpose
of receiving calls and dispatching cabs. They shall answer all calls received by
them for services inside the corporate limits of Red Bank as soon as they can do
so and if said services cannot be rendered within a reasonable time they shall
then notify the prospective passengers how long it will be before the said call
can be answered and give the reason therefor. Any holder who shall refuse to
accept a call anywhere in the corporate limits of Red Bank at any time when
such holder has available cabs, or who shall fail or refuse to give over-all service,
shall be deemed a violator of this chapter and the certificate granted to such
holder shall be revoked at the discretion of the city. (1975 Code, § 5-433)

9-434. Manifests. Every driver shall maintain a daily manifest upon
which are recorded all trips made each day showing time and place of origin and
destination of each trip and amount of fare. All such completed manifests shall
be returned to the owner by the driver at the conclusion of his tour of duty. The
forms for such manifests shall be furnished to the driver by the owner and shall
be of a character approved by the city.

Every holder of a certificate of public convenience and necessity shall
retain and preserve all drivers' manifests in a safe place for at least one (1) year
and said manifests shall be available to the police department. (1975 Code,
§ 5-434)

9-435. Holder's records and reports. Every holder shall keep
accurate records of receipts from operations, operating and other expenses,
capital expenditures, and such other operating information as may be required
by the city manager. Every holder shall maintain the records containing such
information and other data required by this chapter at a place readily accessible
for examination by the city.

Every holder shall submit reports of receipts, expenses, and statistics of
operation to the city manager for each calendar year, in accordance with a
uniform system prescribed by the city manager. Said reports shall reach the
city manager on or before the 15th day of February, of the year following the
calendar year for which such reports are prepared.

All accidents arising from or in connection with the operation of taxicabs
which result in death or injury to any person or in damage to any vehicle, or to
any property in an amount exceeding the sum of fifty dollars ($50.00), shall be
reported within twenty-four (24) hours from the time of occurrence to the police
department on a form of report to be furnished by said department.

It shall be mandatory for all holders to file with the city manager a copy
of all contracts, agreements, arrangements, memoranda, or other writings
relating to the furnishing of taxicab service to any hotel, theater, hall, public
resort, railway station or other place of public gathering, whether such
arrangement is made with the holder or any corporation, firm or association
with which the holder may be interested or connected. Failure to file such
copies within seven (7) days shall be sufficient cause for the revocation of a
certificate of any offending holder or the cancellation of any cab stand privileges. (1975 Code, § 5-435)

9-436. **Advertising.** Subject to the rules and regulations of the city manager it shall be lawful for any person owning or operating a taxicab or motor vehicle for hire to permit advertising matter to be affixed to or installed in or on such taxicab or motor vehicle for hire. (1975 Code, § 5-436)

9-437. **Police department; duty to enforce chapter.** The police department of the City of Red Bank is hereby given the authority and is instructed to watch and observe the conduct of holders and drivers operating under this chapter. Upon discovering a violation of the provisions of this chapter, the police department shall report the same to the city manager who will order or take appropriate action. (1975 Code, § 5-437)
CHAPTER 5

POOL ROOMS

SECTION
9-501. Prohibited in residential areas.
9-502. Hours of operation regulated.
9-503. Minors to be kept out; exception.

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1975 Code, § 5-501)

9-502. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1975 Code, § 5-502)

9-503. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1975 Code, § 5-503)

1Municipal code reference
Privilege taxes: title 5.
CHAPTER 6

MECHANICAL AMUSEMENT DEVICES¹

SECTION

9-601. "Mechanical amusement device" defined.
9-602. Information to be furnished by owner or distributor.
9-603. License required.
9-604. Application.
9-605. Investigation and approval of applicant.
9-606. When license not to be issued.
9-607. Fee required.
9-608. Substitution of device under license; change of business location.
9-609. Revocation.
9-610. Licenses to be posted.
9-611. Operation of devices by minors.
9-612. Forfeiture of licenses for allowing operation of devices by minors.
9-613. Seizure and destruction of gambling devices.

9-601. "Mechanical amusement device" defined. The term "mechanical amusement device," as used herein, shall mean any machine which, on the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for the use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical grab machines and all games, operations or transactions similar thereto, by whatever names they may be designated. (1975 Code, § 5-601)

9-602. Information to be furnished by owner or distributor. Every owner or distributor of mechanical amusement devices in the city shall furnish the city manager with the name and address of each person in whose place of business any such machines have been placed by such owner or distributor to be operated or maintained for operation. (1975 Code, § 5-602)

9-603. License required. Every person who keeps for operation in the city any mechanical amusement device shall obtain an annual license for each such device from the city manager. (1975 Code, § 5-603)

¹Municipal code reference
Privilege tax provisions, etc.: title 5.
9-604. **Application.** Application for the license required by the preceding section shall be made to the city manager in duplicate upon forms to be supplied by him for that purpose and shall contain the following information:

1. Name and address of applicant, his age, and date and place of birth.
2. Prior convictions of applicant, if any.
3. Place where mechanical amusement device is to be operated and business conducted at that place.
4. Description of device to be covered by license and name of distributor or owner. (1975 Code, § 5-604)

9-605. **Investigation and approval of applicant.** One copy of the application shall be referred to the chief of police, who shall investigate the location wherein it is proposed to operate such device and shall also ascertain whether the applicant is a person of good moral character and shall recommend approval or disapproval of the application to the city manager. (1975 Code, § 5-605)

9-606. **When license not to be issued.** No license shall be issued to any applicant unless his application is approved by the city manager, and no license shall be issued to an applicant in any case unless he is over eighteen (18) years of age and a citizen of the United States. (1975 Code, § 5-606)

9-607. **Fee required.** Every applicant, before being granted a license, shall pay the applicable annual privilege tax for the operation of each mechanical amusement device. (1975 Code, § 5-607)

9-608. **Substitution of device under license; change of business location.** The license required under this chapter may be transferred from one mechanical amusement device to another similar device, but not more than one device shall be operated under one license at the same time.

If a licensee moves his place of business to another location within the city, the license may be transferred to such new location upon application to the city manager, giving the street and number of the new location. The new location shall be approved by the chief of police in the same manner as the original location. (1975 Code, § 5-608)

9-609. **Revocation.** In addition to any other penalties provided by law, any license issued under this chapter may be revoked by the board of commissioners if the licensee directly or indirectly permits the operation thereunder of any mechanical amusement device contrary to the provisions of this chapter or the laws of the state or ordinances of the city. The board shall take such action only after five (5) days written notice to the licensee specifying
the violation of which he is charged, and after a hearing at which the licensee or his attorney may submit evidence in his defense.  (1975 Code, § 5-609)

9-610. Licenses to be posted. Each license shall be posted permanently and conspicuously at the location of the mechanical amusement device on the premises wherein the device licensed is to be operated or maintained for operation.  (1975 Code, § 5-610)

9-611. Operation of devices by minors. No licensee shall permit persons under eighteen (18) years of age to play or operate any mechanical amusement device for which he holds a license. The licensee shall in all instances ascertain, at his peril, the true age of any person operating such device. The fact that the person operating the device misstated his age, or that the licensee believed the person operating said device to be of age shall be no defense to a charge of violating this section.  (1975 Code, § 5-611)

9-612. Forfeiture of licenses for allowing operation of devices by minors. If any licensee shall permit the operation of any mechanical amusement device in violation of the preceding section, he shall forfeit all licenses issued hereunder, and the machine used in violation of said section shall be confiscated and impounded and if, upon trial, the licensee is found guilty of violating said section, such machine shall be destroyed. In addition, said licensee shall forfeit any and all privilege licenses held by him for the maintenance or operation of amusement devices, and no similar privilege license shall be issued to him for a period of one year thereafter.  (1975 Code, § 5-612)

9-613. Seizure and destruction of gambling devices. If any policeman has reasonable cause to believe any mechanical amusement device is used as a gambling device, such machine may be seized and impounded and if, upon trial, the licensee is found guilty of allowing it to be used as a gambling device, such machine shall be destroyed.  (1975 Code, § 5-613)
CHAPTER 7

WRECKER SERVICE

SECTION
9-700. Purpose.
9-701. Definition of terms.
9-702. Permit required.
9-703. Local wrecker permit.
9-704. Application for permit.
9-705. Eligibility and investigation of applicants for local wrecker permits.
9-706. Issuance of local wrecker rotation permit; insurance required.
9-707. Separate permits required for each business location.
9-708. Capacity classifications established; equipment and standards; vehicles to bear name of business.
9-709. Wrecker operator to clear accident scene of debris.
9-710. Wrecker operators not to coerce customers.
9-711. Not to respond to calls for police.
9-712. Duty of wrecker operator upon receiving call for service.
9-713. Wreckers not to follow emergency vehicles.
9-714. Wreckers to observe traffic laws.
9-715. Maintenance of primary and outside wrecker rotation call rosters.
9-716. Summoning of wreckers by policemen.
9-718. Suspension of license.

9-700. Purpose. The purpose of this chapter is to establish a two tiered rotation call list procedure for those wrecker operators who apply to remove wrecked or disabled vehicles at the request or call of the Red Bank Police Department or other departments of the City of Red Bank, to provide for safe and timely response of such responses and operations and to provide for the administration of this chapter. (as added by Ord. #98-766, part 1, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-701. Definition of terms. The following terms, when used herein shall have the meanings herein ascribed to them:

(1) "Wrecker" or "wrecker service." Any automobile service station, automobile garage, or automobile wrecking company which owns or operates an automobile towing vehicles of the type commonly known and designated as a "wrecker."

(2) "Primary rotation wrecker." Any wrecker service above defined which maintains an established place of business within the corporate city limits of the City of Red Bank, Tennessee, or which otherwise qualifies to be placed on the primary Red Bank wrecker rotation call list.
(3) "Outside rotation wrecker." Any wrecker service which holds a valid wrecker license from the City of Red Bank and which, although located outside the City of Red Bank, otherwise qualifies to be placed on the Red Bank outside rotation call list and which service is located within seven (7) miles from the Red Bank City Hall, measured on a radial distance, and which wrecker service is capable of answering calls and does, in fact, answer calls for wrecker service with a reasonably demonstrated ability to respond to such calls at any place within the City of Red Bank within fifteen (15) minutes of having received a call/request for wrecker service.

(4) "Established place of business." A wrecker service shall be deemed to maintain an established place of business within the city if it maintains within the city:

(a) A properly zoned office and office building located adjacent and contiguous to its inside and/or outside storage facility with the telephone listed in the name of the wrecker service.

(b) An area, for inside and/or outside storage, which shall be fenced, secured by lock and screened from view of the adjacent properties and streets so that all stored vehicles shall be concealed from view. Fencing shall be of suitable commercial grade fencing materials provided, further, however, that no fence shall be constructed of corrugated or sheet metal or of any scrap material. The outside storage area(s) shall be capable of storing at least ten (10) vehicles.

(5) "Non-consensual tows" means any tow(s) performed without the prior consent or knowledge of the owner or operator of a motor vehicle, including but not necessarily limited to police directed tows and/or as a consequence of an accident or illegal or unlawful parking and/or abandonment of a vehicle and/or of any vehicles creating a traffic hazard in any way or in any way constituting a safety hazard or disrupting traffic and/or any vehicle towed at the direction of the police department as a consequence or the seizure of that vehicle pursuant to state law. (1975 Code, § 5-701, as amended by Ord. #98-766, parts 2, 3, and 4, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-702. Permit required. (1) Only those persons or wrecker services with an established place of business in the City of Red Bank and who are issued a permit as set forth in this chapter will be placed on the Red Bank Primary Wrecker Rotation Call List. Those persons as hereafter provided on the primary or outside wrecker rotation call list shall be called for non-consensual tows except as permitted in § 9-716(4) and the Red Bank Municipal Code.

(2) Those persons who do not maintain an established place of business in the City of Red Bank but who otherwise meet the requisite location and response time criteria set forth in § 9-701(3) and obtain a permit will be placed on the outside wrecker rotation call roster.

(3) Except as provided and authorized in § 9-716(4) of this chapter, no wrecker service shall be utilized for wrecker calls by the Red Bank Police
Department unless such wrecker service shall have and maintain in good standing a permit as required under and pursuant to § 9-706 hereof. (1975 Code, § 5-702, as replaced by Ord. #98-766, part 5, March 1998, Ord. #03-878, Aug. 2003, and Ord. #10-957, July 2010)

9-703. **Local wrecker permit.** Each eligible wrecker service desiring to be placed upon the primary wrecker rotation call roster or on the outside wrecker rotation call roster as described in § 9-714 shall obtain a local wrecker permit from the city manager as herein provided. (1975 Code, § 5-702.1, as replaced by Ord. #03-878, Aug. 2003)

9-704. **Application for permit.** Any person, firm, or corporation desiring to obtain a primary local rotation wrecker call permit or an outside rotation wrecker call permit shall file with the city manager an application setting out, among other things, the following:

1. The name and address of the person, firm, or corporation desiring the local wrecker permit.
2. The address (if applicable for an outside rotation wrecker, the radial distance from city hall to the places where the wrecker(s) are available), and the location, description, and hourly availability of wreckers owned and operated by the applicant.
3. A statement setting forth and describing available space for properly accommodating and protecting all disabled motor vehicles to be towed or otherwise removed from the streets where they have been disabled.
4. The number of and towing capacity of the wreckers that may be used for such purpose owned or available for use by the applicant.
5. A statement that applicant will comply with the rules and regulations now or hereafter promulgated from time to time by the city manager.
6. That all wreckers will be fully equipped at all times with emergency equipment, such as light bars, flares, axes, towing slings, shovels, fire extinguishers, and brooms.
7. A statement that the wrecker operator will accept responsibility for the vehicle towed and any and all personal property left in the stored vehicle(s) and shall hold harmless and indemnify the City of Red Bank from any liability related thereto.
8. A statement that the wrecker operator will meet and comply with all local ordinances with regard to vehicle storage.
9. A statement that the wrecker operator will not release any vehicle impounded by the city without the written authorization of the city manager and/or the chief of police. (1975 Code, § 5-703, as amended by Ord. #98-766, part 6, March 1998, and replaced by Ord. #03-878, Aug. 2003)
9-705. Eligibility and investigation of applicants for local wrecker permits. (1) The city manager shall investigate or cause to be investigated each applicant for a local wrecker rotation call permit for the purpose of determining whether or not the applicant meets the several qualification requirements and has the necessary facilities and equipment to qualify as a primary rotation wrecker or as an outside rotation wrecker operator. If the applicant is so qualified, a local primary rotation permit, or as is applicable, an outside rotation wrecker permit shall be issued.

(2) No person convicted of a felony within ten (10) years next preceding the application date shall be eligible for or issued a permit as provided under this chapter; no corporation, limited liability company, partnership or other entity shall be eligible for a permit in the event that any officer, director, shareholder, manager, equity position holder, or employee shall have been convicted of a felony within the ten (10) years next preceding the application date for such permit under this section; provided, further, that conviction of a felony by any such person above referenced during the time when a permit hereunder shall otherwise be in effect shall be grounds for immediate administrative revocation of such permit unless the permit holder shall irrevocably disassociate itself, based upon satisfactory evidence provided to the city manager, from any such person so convicted of a felony, said disassociation to take place not less than forty-five (45) days next following entry of a judgment of conviction of felony during the time when said permit is in effect.

(3) The provisions of § 9-705(2) shall not be construed so as to revoke any permit validly issued or render ineligible any individual holding a validly issued permit as of the date of passage of the ordinance comprising this section on second and final reading, nor shall the same be utilized to deny the renewal or reissuance of any permit validly issued prior to the effective date of the ordinance comprising this section except as relates to the conviction of a felony subsequent to the date of the passage of this section. (1975 Code, § 5-704, as amended by Ord. #98-766, part 7, March 1998, and replaced by Ord. #03-878, Aug. 2003, and Ord. #10-957, July 2010)

9-706. Issuance of local wrecker rotation permit; insurance required. When an application for a local wrecker permit has been approved, the city shall issue such permit to the applicant upon the payment by the applicant of the annual permit fee. The annual permit fee shall be $100.00. All primary and/or outside wrecker rotation call permits shall expire on December 31st and shall be renewed between December 1st and December 31st, of each year. Before the city manager shall issue any local wrecker rotation call permits the applicant shall deposit with the city manager a certificate of an underwriter that the applicant has in force a policy or policies of insurance issued by a company authorized to transact business in the State of Tennessee, as follows: A garage-keeper's legal liability policy, broad form, covering fire, theft, explosion, and collision with not less than the following limits:
Fire theft and/or other casualty, all in a minimum amount of $500,000 per occurrence and $1 million in the aggregate.

Collision, subject to $1,000.00 deductible, with each accident being a separate claim, with limits of not less than $500,000.00.

A broad form garage liability policy covering the operation of applicant's own business, equipment or vehicles for bodily injuries and death in the amount of not less than $500,000.00 for any one person killed or injured; $1 million for more than one person killed or injured in any one accident; and not less than $500,000.00 for all damage arising from injury to or destruction of property.

The policy or policies shall contain an endorsement providing for ten (10) days notice to the City of Red Bank in the event of any material change or cancellation of the policy or policies by the insurance company. Failure to maintain such coverage and/or to keep the certificates current with city shall result in immediate suspension of the permit. (1975 Code, § 5-705, as amended by Ord. #98-766, part 8, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-707. Separate permits required for each business location. Each separate business location operated by a wrecker service shall require a separate local wrecker permit. Each local wrecker permit issued by the city shall designate specifically the location and address of the local wrecker service to whom it is issued. Should the local wrecker service move its address to any location other than that endorsed upon the permit, the permit shall be void unless it is presented to the city recorder within thirty days after the change of address, and the new address and location endorsed thereon by the city recorder. A fee of one hundred fifty ($150.00) dollars shall be paid for such endorsement which shall be verified by the signature of the city recorder. (1975 Code, § 5-705.1, as amended by Ord. #98-766, part 9, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-708. Capacity classifications established; equipment and standards; vehicles to bear name of business. Every primary rotation wrecker and each outside rotation wrecker permitted by the City of Red Bank, Tennessee shall display, painted or magnetically adhered upon both sides in prominent letters, the name and address of the owner or a business name and address of the permitted wrecker service. A rotation wrecker may display both the business name and the name of the owner but no rotation wrecker shall display the name of more than one (1) place of business or more than one (1) owner unless such owners are partners in the same business.

(1) Four (4) vehicle towing classes are established as set out hereinbelow. Each towing vehicle of an operator shall only be listed in one (1) class. The following criteria shall be met for each respective class, and at least one (1) of which shall be met per vehicle for the inclusion of that classification of vehicle on the primary wrecker rotation call list as to each vehicle towing
class. Wrecker companies and permit holders may have any one (1), more or all of the following classification vehicles:

(a) Class A: for towing passenger cars, pick up trucks, small trailers, etc. This classification also includes "wheel lift" type vehicle transporters.

(i) The towing vehicle chassis shall have a minimum manufacturer's capacity of fourteen thousand (14,000) pounds or greater GVWR;

(ii) Individual boom capacity of not less than four (4) tons;

(iii) Individual power winch pulling capacity of not less than four (4) tons;

(iv) A minimum of one hundred feet (100') of three-eighths inch (3/8''), or larger, cable on each drum;

(v) Wheel lift capable of picking up a passenger car or pick-up truck;

(vi) Belt-type cradle tow plate or tow sling to pick up vehicles, and cradle or tow plate to be equipped with safety chain;

(vii) Dollies are suggested, but not required; and

(viii) Wheel lift: towing vehicles possessing equipment capable of lifting the vehicle by the wheels only, with nothing touching the vehicle body.

(A) Wheel lift towing vehicles shall meet all Class "A" requirements, excluding the belt-type cradle tow plate or tow sling.

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

(b) Class B: for towing medium size trucks, trailers, etc.

(i) The towing vehicle chassis shall have a minimum manufacturer's capacity of twenty-six thousand (26,000) pounds or greater GVWR;

(ii) Boom specifications:

(A) Double boom: so constructed as to permit splitting, each boom to operate independently or jointly, individual boom capacity of no less than eight (8) tons and individual power winch pulling capacity of not less than eight (8) tons; or

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

(iii) Two hundred feet (200'), or more, of seven-sixteenths inch (7/16''), or larger, cable on each drum; and
(iv) Cradle tow plate or tow sling to pick up vehicle, cradle or tow plate to be equipped with safety chain.

(c) Class C: for towing large trucks, road tractors, and trailers.

(i) The towing vehicle chassis shall have a minimum manufacturer's capacity of thirty-five thousand (35,000) pounds or greater GVWR;

(ii) Boom specifications:

(A) Double boom so constructed as to permit splitting; each boom to operate independently or jointly; individual boom capacity of no less than twelve and one-half (12 1/2) tons; or

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

(iii) Two hundred feet (200'), or more, of nine-sixteenths inch (9/16"), or larger, cable on each drum;

(iv) Airbrakes constructed so as to lock wheels automatically upon failure;

(v) Only tandem axle trucks with two (2) live drive axles will be accepted as Class C; and

(vi) An under-reach capable of towing an eighty thousand (80,000) pound tractor trailer combination shall be required on all Class C towing vehicles that are added to the towing list after July 1, 2008.

(d) Class D: Vehicle transporters designed to tow or carry passenger cars, pick-up trucks, small trailer, etc. This classification includes "car carrier" or "rollback" type vehicle transporters.

(i) Car carrier vehicle transporters:

(A) The truck chassis shall have a minimum manufacturer's capacity fourteen thousand (14,000) pounds or greater GVWR;

(B) Lift cylinder:

(1) Two (2) with a minimum of three inch (3'') bore each; or

(2) One (1) with a minimum of five and one-half inch (5 1/2'') bore.

(C) Individual power winch pulling capacity of not less than four (4) tons;

(D) Fifty feet (50'), or more, of three-eighths inch (3/8''), or larger, cable on winch drum;

(E) Two (2) safety chains for securing vehicle to carrier bed;
(F) Carrier bed shall be a minimum of sixteen feet (16') in length and a minimum of eighty-four inches (84") in width inside side rails;

(G) Cab protector, constructed of solid steel or aluminum, that extends to a height of four feet (4') above the floor or to a height at which it blocks the forward movement of the bumper of the vehicle being towed; and

(H) Straps with ratcheting capability that provide for the transporting of motorcycles.

(2) In addition to the equipment required under the applicable classifications hereinabove provided, all rotation wreckers, whether primary or outside, shall have and maintain equipment and standards which comply with at least the following:

(a) At least one (1) functional, amber-colored, and rotating or strobe type light (LED lights are also permissible) shall be permanently mounted on the top of the towing vehicle.

(b) Work lights (operational), all emergency flashers and directional lights showing to the front must be amber in color.

(3) Trailer ball attachment.

(d) Safety and emergency package including:

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

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

(iii) One (1) shovel;

(iv) One (1) axe;

(v) One (1) pinch bar, pry bar or crowbar;

(vi) One (1) set of bolt cutters;

(vii) Minimum of one (1) fully charged twenty (20) pound, or two (2) fully charged ten (10) pound, fire extinguisher(s) having an Underwriters Laboratory (UL) rating of four (4) A: B: C: or more. The fire extinguisher must be securely mounted on the towing vehicle;

(viii) Minimum of one (1) fifty (50) pound bag of a fluid absorption compound;

(ix) Three (3) (minimum) red emergency triangular reflectors; and

(x) One (1) 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 rearmost vehicle while in tow. The bar must consist of at least two (2) tail lamps, two (2) stop lamps and two (2) turn signals. All lights on the light bar must be fully operational.

(3) No wrecker, whether primary rotation or outside rotation, shall be equipped with or operate any siren; sirens on wreckers are prohibited.
(4) Before any permit shall be issued or renewed, each permitted wrecker shall be inspected for compliance with the requirements of this section by the city manager or designee and an inspection fee of twenty-five dollars ($25.00), which may be amended by subsequent resolution by the city commission from time to time, shall be paid by the applicant to defray the cost of the inspection. (1975 Code, § 5-706, as amended by Ord. #98-766, part 10, March 1998, replaced by Ord. #03-878, Aug. 2003, and amended by Ord. #10-957, July 2010)

9-709. Wrecker operator to clear accident scene of debris. It is the responsibility of the wrecker operator to remove debris from the scene of any accident for which the wrecker is called and to comply with all requirements of Tennessee Code Annotated, § 55-8-170 as now enacted or later amended, whether such call be a primary rotation wrecker, an outside rotation wrecker or a consensual tow wrecker. (as added by Ord. #98-766, part 11, March 1998, and replaced by Ord. #03-878, Aug. 2003, and Ord. #10-957, July 2010)

9-710. Wrecker operators not to coerce customers. The wrecker or towing operator shall pull a wrecked vehicle to any place designated by the owner of such wrecked vehicle. It shall be unlawful for the owner of a wrecker, his agent, employee or representative, while at the scene of any accident, to coerce or insist that any owner of, or person in control or possession of a wrecked vehicle sign a work order or agreement for any repairs to be made on such wrecked vehicle. (1975 Code, § 5-707, as renumbered by Ord. #98-766, part 12, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-711. Not to respond to calls for police. It shall be unlawful for any wrecker service to attend the scene of a wreck, based upon information received by listening to police radio calls, unless a request is broadcast to that particular wrecker service over the police radio to come to said scene. (1975 Code, § 5-708, as renumbered by Ord. #98-766, part 13, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-712. Duty of wrecker operator upon receiving call for service. Any wrecker service, upon receiving a call to come to the scene of an accident by any person other than the city police, shall immediately, and before leaving his place of business, call the city police and report the accident to them. Upon reporting the accident to the police department, the wrecker service will be advised whether or not to proceed to the scene of the accident, and shall in all cases abide by the instructions received by him from the police department. (1975 Code, § 5-709, as renumbered by Ord. #98-766, part 14, March 1998, and replaced by Ord. #03-878, Aug. 2003)
9-713. Wreckers not to follow emergency vehicles. It shall be unlawful for any wrecker to follow an ambulance, fire truck, police vehicle, or other emergency vehicle upon the city streets, with the intention of soliciting business at the scene of some accident, catastrophe, or other mishap. (1975 Code, § 5-710, as renumbered by Ord. #98-766, part 15, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-714. Wreckers to observe traffic laws. Any wrecker proceeding to or from the scene of an accident or operating upon the city streets at any other time shall at all times observe all speed and traffic laws in effect in the city. (1975 Code, § 5-711, as renumbered by Ord. #98-766, part 16, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-715. Maintenance of primary and outside wrecker rotation call rosters. Each local wrecker service which is qualified therefor in accordance with the provisions of this chapter will be placed upon either the primary wrecker rotation call roster or upon the outside rotation call roster. Upon issuance of the applicable local wrecker permit, said local wrecker service shall be entered upon either the primary rotation call roster or upon the outside rotation call roster immediately following the wrecker service on, as is applicable, either the primary or the outside rotation call roster called to the scene of an accident by the police department, provided, however, that no permitted wrecker service shall be eligible to receive calls on either list under § 9-715 hereof unless such local wrecker service:

(1) Is open for calls twenty-four hours a day, and
(2) Holds a current local wrecker permit. (1975 Code, § 5-712, as renumbered and amended by Ord. #98-766, part 17, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-716. Summoning of wreckers by policemen. The police department and all officers and employees and/or other officers or employees of the City of Red Bank thereof shall observe the following regulations in summoning a wrecker as to each incident for which a rotation wrecker call is necessary:

(1) The investigating or arresting officer shall first ascertain from the owner or operator of a vehicle for which a wrecker is required what wrecker service the owner or operator prefers to handle his vehicle. If the owner or operator specifies a special wrecker service, and if in the judgment of the police officer the specified wrecker service can reach the scene without delay of fifteen (15) minutes or greater from the time of such call where the vehicle or vehicles involved create a traffic hazard or traffic congestion, the police shall promptly notify the wrecker service to come to the scene of the accident.

(2) If the owner or operator of the vehicle involved expresses no preference for wrecker service, or if the operator of the vehicle involved is not
competent to designate a wrecker service by reason of injuries or otherwise, or the wrecker service designated by the owner or operator is not immediately available, then and in that event the police officer shall summon the permitted wrecker service next in line on the primary wrecker rotation call roster.

(3) In the event the permitted local wrecker service next in line on the primary wrecker rotation call roster called is not able to immediately dispatch a wrecker to the scene, then and in that event the officer shall summon the next in line on the primary wrecker rotation call roster service on the primary rotation call roster which is able to respond immediately to the call until such list is exhausted.

(4) In the event that there is no permitted wrecker on the primary wrecker rotation call roster available, or in the event that none of such permittees on the primary rotation list have or has equipment capable of handling the call, then the police officer shall summon the permitted wrecker next in line on the outside wrecker rotation call roster, and if there is no permitted wrecker on the outside wrecker rotation call roster available with equipment capable of handling the call, then the officer shall summon any available outside wrecker service with equipment capable of handling the call as circumstances may occur from time to time and from incident to incident; for each such subsequent and/or different incident, the primary rotation call roster shall first be exhausted before resorting to the outside rotation call roster which shall, in turn, be exhausted before resulting to the calling of an outside wrecker service with equipment capable of handling the call.

(5) In the event any wrecker other than the one which has been summoned by the police responds to any call, the police officer in charge shall not permit such wrecker to pull the vehicle involved, but shall thereupon call the appropriate local wrecker service as hereinabove provided.

(6) Any time that a local wrecker service which has been summoned by the police to pull a vehicle determines that it is unable to respond to such summons, it shall be the responsibility of the wrecker service to notify the police department immediately. Under no circumstances shall a wrecker service which has been called by the police department in turn call another wrecker service and request it to take the call for the wrecker service which has been called by the police. There shall be no subcontracting or assignment of calls.

(7) Under no circumstances shall any city employee allow any such wrecked, damaged or abandoned vehicle to be left on private property without the consent of the owner or occupant of that private property. (1975 Code, § 5-713, as renumbered and amended by Ord. #98-766, part 18, March 1998, replaced by Ord. #03-878, Aug. 2003, and amended by Ord. #10-957, July 2010)

9-717. Billing and charges for rotation call roster wreckers. All primary or outside rotation wrecker permit holders shall be subject to regulation as to billing and charges for any call from the police department referred to such wrecker under the call rotation system as follows:
(1) The owner of a wrecker car shall have prepared billheads with his name and the address of his place of business printed thereon. If requested by the owner of the disabled vehicle, the operator of the wrecker before towing a disabled vehicle away shall prepare a bill on his billhead form in duplicate; the original of which shall be given to the owner of the disabled vehicle or his authorized representative. This bill shall contain the following information:
   (a) Name and address of person engaging towing car
   (b) State license number of disabled vehicle
   (c) Storage rates per day or part thereof
   (d) An estimate of the amount to be charged for towing which may thereafter only be adjusted for good cause. The printing of a schedule of fees on a billhead marked as to services rendered shall be sufficient for this purpose.

(2) The duplicate copy of the bill shall be retained by the wrecker or towing car owner for a period of one (1) year, and shall be subject to inspection by the wrecker inspector or his duly authorized representative.

(3) In the event the bill is for an amount more than the schedule of charges for routine services described in paragraph (4) below, then the bill shall contain an itemization of the number of worker-hours involved in the recovery and towing of the disabled vehicle, an itemization of the vehicle-hours involved, and any other special charges which cause the bill to be higher than the schedule of charges for routine services.

(4) The maximum charge for rotation wrecker calls shall be as follows:

<table>
<thead>
<tr>
<th>Class</th>
<th>Day</th>
<th>Night</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Class and D Class (Min. GVWR 14,500 lbs)</td>
<td>$125.00</td>
<td>$135.00</td>
</tr>
<tr>
<td>Storage (outside)</td>
<td>$15.00 per day</td>
<td></td>
</tr>
<tr>
<td>Storage (inside)</td>
<td>$17.00 per day</td>
<td></td>
</tr>
<tr>
<td>Extra winching (for overturned vehicles or vehicles down an embankment)</td>
<td>$50.00</td>
<td></td>
</tr>
<tr>
<td>Dollies</td>
<td>$45.00</td>
<td></td>
</tr>
<tr>
<td>B Class (Min. GVWR 25,000 lbs)</td>
<td>$250.00</td>
<td>$285.00</td>
</tr>
<tr>
<td>Storage (tractor)</td>
<td>$35.00 per day</td>
<td></td>
</tr>
<tr>
<td>Storage (trailer)</td>
<td>$35.00 per day</td>
<td></td>
</tr>
<tr>
<td>Extra winching (for overturned vehicles or vehicles down an embankment)</td>
<td>$150.00</td>
<td></td>
</tr>
<tr>
<td>Class</td>
<td>Day</td>
<td>$425.00</td>
</tr>
<tr>
<td>------------</td>
<td>-----------</td>
<td>---------</td>
</tr>
<tr>
<td>C Class</td>
<td>Night</td>
<td>$500.00</td>
</tr>
<tr>
<td>(Min. GVWE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>50,000 lbs)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Storage (tractor)</td>
<td>$35.00 per day</td>
</tr>
<tr>
<td></td>
<td>Storage (trailer)</td>
<td>$35.00 per day</td>
</tr>
<tr>
<td></td>
<td>Extra winching (for overturned vehicles or vehicles down an embankment)</td>
<td>$225.00 per ½ hours</td>
</tr>
<tr>
<td></td>
<td>Air bags</td>
<td>$1,000.00 first 2 hours; $500.00 per hour thereafter</td>
</tr>
</tbody>
</table>

(a) Any additional charge by Class A, Class B, Class C, or Class D wreckers for winching, dollies, wheel lift or rollbacks, or other equipment or services not normally incident to towing wrecked or disabled vehicles shall be allowed only when the additional charge is

(i) Reasonably necessary to retrieve a wrecked vehicle which is off of the road or overturned;

(ii) To protect the wrecked or disabled vehicle from reasonably foreseeable additional damage should the device not be used; or

(iii) At the request of or permission of the owner or operator.

An additional charge can be made for the pneumatic devices used to raise overturned trucks or other equipment not normally used in a tow. If more than one wrecker is necessary for recovery of the wrecked disabled vehicle the charges shall apply to each vehicle.

(b) Recovery class (for towing large trucks, road tractors and trailers which require winching) shall be as follows:

(i) Contained recovery/winching 7.0¢ per pound

for all recovery jobs in which there is no clean-up of debris from the vehicle to be recovered and cargo doors remain closed.

(ii) Salvage/debris recovery for picking up debris/parts or loading from one vehicle to another, or a vehicle that breaks apart and needs to be towed from the scene.

(iii) The following charges may be added to the contained recovery/winching or salvage/debris recovery when applicable and if specified on the billing invoice:
Change 10, August 2, 2011

(A) **Inclement weather**: Rain, snow, or if the temperature is below 25°F

(B) **Nights, weekends and holidays**: Includes times after 7:00 PM and before 8:00 AM and any time on Saturdays, Sundays, and all public holidays

(C) **Wheels higher than roof**: If any wheel is higher than any part of the roof

(D) **Embankments or inclines**: If it is necessary to work on an embankment or incline

(E) **Back door frame open**: If the back doors cannot be closed or the door frame is torn away and the integrity of the trailer is jeopardized.

(F) **Tractor from under trailer**: If the tractor separates from the trailer in the crash

(G) **Major suspension damage**: If major suspension damage has an impact on the recovery, e.g. axles have been torn from suspension, but does not include if only front axle is involved.

(H) **Air bags**: $1,000.00 first 2 hours; $500.00 per hour thereafter

(I) **Sublet charges**: For tractor trailers, dump trucks, backhoes, containers, roll of containers, and other equipment necessary for the recovery which is not required equipment to qualify as a recovery class or any other wrecker class under this chapter. Sublet charges shall be reasonable rates based upon the market rate for renting said equipment in the City of Red Bank.
(J) Exposure to hazardous and/or flammable materials: Charges for personnel being exposed to the risks associated with hazardous materials and/or flammable materials, not including the charges for the clean up of said materials. This charge shall be a reasonable charge based upon the market rate in this state. The burden shall be upon the wrecking company to establish the market rate.

All recovery class operators must keep on file at their location, for a period of one year, video documentation of the scene, and the conditions for which all additional charges are being billed pursuant to this chapter. Video documentation shall consist of videotape, film, photographs, or other media which accurately depicts the scene and conditions as they actually appeared at the time of recovery.

No storage fee shall be charged by any district wrecker class if the vehicle is reclaimed by the owner within the first eight (8) hours.

For every wrecker class, if more than one owner or employee per wrecker is of necessity assigned to assist in the recovery of the disabled vehicle, the normal hourly wage of the additional employee's adjusted fringe benefits can be made as an additional charge. (1975 Code, § 5-714, as renumbered and amended by Ord. #98-766, March 1998, replaced by Ord. #03-878, Aug. 2003, and amended by Ord. #04-895, Sept. 2004, and Ord. #10-957, July 2010)

9-718. Suspension of license. Any person, firm or corporation operating a wrecker service, which violates any of the provisions of this chapter shall, for its first violation, have its privilege license for doing business in the City of Red Bank summarily suspended by the city manager for a period of not less than thirty (30) nor more than ninety (90) days, in addition to any fine which may be assessed under the general penalty clause for this code. During the period that any wrecker service is under suspension in accordance herewith, the same shall not be permitted to pull or tow any motor vehicle upon the streets of this city. Subsequent violations may result in revocation or non-renewal of such operator's license and accordingly removal from the applicable rotation call roster. (1975 Code, § 5-715, as renumbered by Ord. #98-766, part 20, March 1998, and replaced by Ord. #03-878, Aug. 2003)
CHAPTER 8

ADVERTISING SIGNS, ADMINISTRATION AND ENFORCEMENT

SECTION
9-801. Exemptions from and applicability of chapter.
9-802. Definitions.
9-803. License required for erecting off-premises signs and detached on-premises signs.
9-804. Reserved.
9-805. Disposal of glue, paste, waste material.
9-806. Permit required to erect, maintain sign.
9-807. Application for sign permit; notification to building inspector; expiration and renewal of permits.
9-808. No permits to be issued in violation of ordinances; approval of city engineer; schedule of permit fees; yearly maintenance and safety inspection fee; inventory of certain existing signs.
9-809. Power to revoke permit; remedies for violation.
9-810. Owner's name required on off-premise signs.
9-812. Violation declared misdemeanor; penalty.
9-813. Violations declared nuisances; pre-existing violations.
9-814. Notice requiring abatement of violation; abatement by city lien for costs.
9-815. Appeals.
9-816. Obscene displays on signs.
9-817. Signs over streets, sidewalks; where other advertising prohibited.
9-819. Signs distracting to motor vehicle operators prohibited.
9-820. General off-premise sign regulations.
9-821. Scenic areas and scenic corridors.
9-822. Scenic areas.
9-823. Scenic corridors established.
9-824. Off-premise signs along scenic corridor or within scenic areas prohibited.
9-825. Prohibited on-premises signs and devices.
9-826. Authorized use of temporary signs, banners and special events.
9-828. Balloon signs.
9-829. Banners.
9-830. Special events.

1Municipal code references
   Building and electrical codes: title 12.
   Privilege tax provisions: title 5.
9-831. General regulation of permanent on-premises signs.
9-832. Number and size of permitted on-premise signs.
9-833. Maximum size limitations for detached signs.
9-834. Set-back requirements for detached signs.
9-835. Minimum and maximum height limitations on detached signs.
9-836. Traffic directional signs.
9-837. Directional signs on hospital premises.
9-838. Maintenance of on-premises signs.
9-839. Flags.
9-840. Compliance and corrective provisions.
9-841. Various building and safety codes applicable.
9-842. Political signs regulated.
9-843. Set back variances and procedures.

9-801. Exemptions from and applicability of chapter. (1) Nothing in this chapter shall apply to any notice required by this code or other ordinances of the city or legal notices of public officers and attorneys, posted in the manner and places provided by law, or to the right of any newspaper to distribute its paper throughout the city.

(2) Nothing contained herein is intended to conflict with the provisions of the Red Bank Zoning Ordinance as now enacted or hereafter amended except that the provisions of § 9-823 and § 9-824 are intended to provide that, notwithstanding provision in the zoning ordinance that would otherwise permit the erection and maintenance of on-premises and/or off-premises signs in a zone or zones, the provisions of § 9-823 and § 9-824 shall override the permissive provisions of the zoning ordinance currently located in zones where such uses are currently permitted by the zoning ordinance. (1975 Code, § 5-801, as replaced by Ord. #03-875, June 2003)

9-802. Definitions. For the purposes of this chapter, the following definitions shall apply:

(1) "Attached sign." Attached sign shall mean an on-premise sign painted onto or attached to a building, canopy, awning, marquee or mechanical equipment located outside a building, which does not project more than eighteen (18) inches from such building, canopy, awning, marquee or mechanical equipment. Any such sign which projects more than eighteen (18) inches from a building, canopy, awning, marquee or mechanical equipment shall be considered a "projecting sign." For the purposes of this definition only, "canopy" shall mean a canopy which is permanently attached to a building or which, if detached from a building, has more than two hundred (200) square feet of roof area.

(2) "Awning." Awning shall mean a roof-like cover providing protection from the weather placed over or extending from above any window,
door or other entrance to a building but excluding any column, pole or other supporting structure to which the awning is attached.

(3) "Balloon sign." Balloon sign shall mean any sign painted onto or otherwise attached to or suspended from a balloon, or other inflatable device, whether such balloon or device is anchored of affixed to a building or any other portion of the premises or tethered to and floating above any portion of the premises.

(4) "Banner." Banner shall mean an on-premise sign which is made of fabric, paper or any other non-rigid material and which has no enclosing framework or internal supporting structure but not including balloon signs.

(5) "Building." Building shall mean any structure that encloses a place for sheltering any occupancy that
   (a) Contains not less than three hundred (300) square feet of enclosed space at the ground level or
   (b) Is routinely used for human occupancy in the ordinary course of business.

(6) "Building identification sign." Building identification sign shall mean an on-premise sign which is limited to the identification of the name of the building and/or the address of the building upon which such sign is located.

(7) "Canopy." Canopy shall mean a marquee or permanent roof-like structure providing protection against the weather, whether attached to or detached from a building, but excluding any column, pole or other supporting structure to which the canopy may be attached.

(8) "Construction sign." Construction sign shall mean any temporary on-premise sign located upon a site where construction or landscaping is in progress and relating specifically to the project which is under construction, provided that no such sign shall exceed a total of one hundred (100) square feet in sign area.

(9) "Detached sign." Detached sign shall mean
   (a) Any freestanding sign or projecting sign,
   (b) Any sign attached to a canopy which is detached from a building and which has less than two hundred (200) square feet of roof area, and
   (c) Any sign attached to a structure which is not a building.

(10) "Erect." Erect means to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs on building surfaces.

(11) "Facade." Facade shall mean the total external surface area of a vertical side of a building, canopy, awning or mechanical equipment used to dispense a product outside a building. If a building, canopy, awning or mechanical equipment has a non-rectangular shape, then all walls or surfaces facing in the same direction, or within twenty-five (25) degrees of the same direction, shall be considered as part of a single facade. Additionally, any portion of the surface face of a mansard, parapet, canopy, marquee or awning...
which is oriented in the same direction (or within twenty-five (25) degrees of the
same direction) as the wall to which, or over which, such mansard, parapet,
canopy, marquee, or awning is mounted shall be deemed a part of the same
facade as such wall.

(12) "Facing and surface." Facing and surface mean the surface of the
sign upon, against, or through which the message is displayed or illustrated on
the sign.

(13) "Freestanding sign." Freestanding sign shall mean a permanently
affixed single or multi-faced on-premises sign which is constructed independent
of any building and supported by one or more columns, uprights, braces or
constructed device. No free standing sign shall have a total sign area of greater
than two hundred eighty-eight (288) square feet.

(14) "Grass surface area of sign." Gross surface are of sign means the
entire area defined by the limits of the perimeter of a sign. However, such
perimeter shall not include any structural elements lying outside or inside of the
limits of such sign and not forming an integral part of the display.

(a) For computing the area of any wall sign which consists of
letters, trademarks or symbols mounted on a wall, the gross surface area
shall be the area within a single continuous perimeter formed by the
parallel lines at the top, bottom and sides of such letters, trademarks or
symbols.

(b) For computing the area of any multi-sided sign, the gross
surface area shall refer to all sides of such sign.

(15) "Height." Height shall mean the total measurement of the vertical
side of the rectangle which is used to calculate "sign area" as specified in this
§ 9-802.

(16) "Incidental sign." Incidental sign shall mean an on-premise sign,
emblem or decal mounted flush with the facade to which it is attached and not
exceeding two (2) square feet in sign area informing the public of goods, facilities
or services available on the premises (e.g., a credit card sign, ice machine sign,
vending machine sign or a sign indicating hours of business) or an on-premise
sign which is affixed to mechanical equipment used to dispense a product and
which is less than two (2) square feet in sign area.

(17) "Inflatable or air-supported signs." Inflatable or air supported
signs means structures which are used for advertising promotional purposes
which are supported by air. This shall include but shall not be limited to
balloons or dirigibles and is synonymous with "balloon signs."

(18) "Landmark sign." Landmark sign shall mean any on-premise sign
which identifies and is attached to any building which is included on the
National Register of Historic Places, is listed as a Certified Historic Structure,
is listed as a National Monument or is listed under any similar state or national
historical or cultural designation.

(19) "Maintenance." Maintenance means the replacing or repairing of
a part of a sign made unusable or unsightly by ordinary wear and tear or
damage beyond the control of the owners, or the reprinting or repainting of
existing copy without changing the wording, composition or color of the sign as
it was approved.

(20) "Mansard." Mansard shall mean the lower portion of a roof with
two pitches, including a flat-top roof with a mansard portion.

(21) "Mansard sign." Mansard sign shall mean any sign attached to the
mansard portion of a roof.

(22) "Marquee." Marquee shall mean a permanent roof-like structure
projecting from and beyond a building wall at an entrance to a building or
extending along and projecting beyond the building's wall and generally
designed and constructed to provide protection against the weather.

(23) "Message center." Message center shall mean a sign on which the
message or copy changes automatically on a lamp bank or through mechanical
means also known as a commercial electronic variable message sign.

(24) "Occupant." Occupant shall mean each separate person which
owns or leases and occupies a separate portion of a premises.

(25) "Off-premise sign." Off-premise sign shall mean a sign or a portion
thereof which directs attention to a business, profession, commodity or
entertainment which is not primarily conducted, sold or offered upon the same
premises on which the sign is located and shall include any sign which is not an
"on-premises sign."

(26) "On-premise sign." On-premise sign shall mean any sign whose
content relates to the premises on which it is located, referring exclusively to the
name, location, products, persons, accommodations, services, entertainment or
activities conducted on or offered from or on those premises, or the sale, lease,
or construction of those premises.

(27) "Owner." Owner means any person or persons having legal title to
any sign, property, building, structure or premises, with or without
accompanying actual possession thereof, and shall include such person's duly
authorized agent or attorney, a purchaser, devise, lessee, executor, trust officer,
administrators or fiduciary and any person having a vested or contingent
interest or control of or in the sign, property, building structure or premises in
question. The term "person" shall include any legal entity.

(28) "Person." Person shall mean individual, company, corporation,
association, limited liability company, partnership, joint venture, business,
proprietorship or any other legal entity.

(29) "Portable sign." Portable sign shall mean any on-remise sign which
is not affixed to real property in accordance with the city's then applicable
building codes or in such a manner that its removal would cause serious injury
or material damage to the property or which is intended to be or can be removed
at the pleasure of the owner, including, without limitation, single or multi-faced
sandwich boards, wheel-mounted mobile signs, sidewalk and curb signs, ground
signs and balloon signs.
"Premises." Premises shall mean all contiguous land in the same ownership which is not divided by any public highway, street or alley or right-of-way therefor and shall be synonymous with the terms tax parcel or lot of record.

"Projecting sign." Projecting sign shall mean an on-premise sign attached to a building, canopy, awning or marquee and projecting outward therefrom in any direction a distance more than eighteen (18) inches, provided, however, that no projecting sign shall extend horizontally from the building more than eight (8) feet at the greatest distance.

"Public interest directional markers." A small, off-premises (no more than two (2) square feet total area) non-illuminated and non-electrified directional placard or sign directing pedestrian and/or vehicular traffic toward public buildings, hospitals, places of worship, public libraries, public museums, public parks, cemeteries and/or other public facilities.

"Public right-of-way or right-of-way." Public right-of-way or right-of-way means all of the land included within an area which is dedicated, reserved by deed or granted by easement for a street, alley, walkway, parkway or easement, in which the public, public agencies, utilities and service have access.

"Reader board." Reader board shall mean any on-premise sign attached to or made a part of the support system of a freestanding sign which either displays interchangeable messages or advertises some product or service offered separately from the name of the premises where it is located, such as "Deli Inside," "Tune-Ups Available," "Year-End Special" and the like.

"Rigid materials." Rigid materials means a material or composition of materials which cannot be folded and can support its own weight when rested upon parallel edges of such materials.

"Roof sign." Roof sign shall mean an attached or projecting sign

(a) Which is placed on top of or over a roof, excluding the mansard portion of a roof, or is attached to any flagpole, antenna, elevator housing facilities, air conditioning towers or coolers or other mechanical equipment on top of a roof,

(b) Any portion of which extends above the top of the wall, canopy or awning to which such sign is attached, or

(c) Any portion of which extends above the top of the mansard in the case of a mansard sign.

"Scenic corridor." Scenic corridor shall mean those land areas within the city limits which lie within six hundred sixty (660) feet of either side of the outermost edge of any of the roads, rivers, or rights-of-way more specifically designated in §§ 9-821 through 9-824, which are either of uncommon visual importance or scenic attractiveness.

"Sign." Sign shall mean any structure or wall or device or other object used for the display of any message or messages; such term shall include without limitation any structure, display, device or inscription which is located upon, attached to, or painted or represented on any land, on any building or structure, on the outside of a window, or on an awning, canopy, marquee, or similar appendage, and/or which displays or includes in any manner designed or intended or which can be seen from out of doors, any message or messages, numeral, letter work, model, emblem insignia, symbol, device, (including without limitation balloons, blimps, or other similar or dissimilar devices), light,
projected images, trademark, or other representation or platform or background of any kind used as, or in the nature of, an announcement, advertisement, attention arrester, warning or designation of any person, firm, group, organization, place, community, product, service, location, businesses, profession, enterprise or industry. Provided, however, that the following shall be excluded from this definition:

(a) **Address/name signs.** A sign, not exceeding 1 square foot in area, identifying the name or house number of the occupant or the presence of a permitted home occupation.

(b) Any message or messages on the clothing of any person or on motor vehicles unless otherwise prohibited in accordance with § 9-826 hereof.

(c) **Auxiliary signs.** Auxiliary signs placed in store windows regarding hours of operation, accepted charge cards, warnings or similar information.

(d) **Business nameplates.** Non-illuminated nameplates not exceeding 1 square foot which denote the business name of an occupation legally conducted on the premises. Only 1 nameplate per proprietor shall be permitted.

(e) **Construction signs.** One sign per street frontage not exceeding 32 square feet in area. Such signs may indicate the architect, engineer or contractor and can be installed upon application of a building permit and removed upon the issuance of a certificate of completion.

(f) **Flags and pennants.** Flags and pennants at educational, governmental, or eleemosynary institutions which are not displayed for commercial purposes and are not greater than 50 square feet in size. A maximum of 4 flags or pennants per site may be displayed. The pole height shall be limited to the zoning district height limitation.

(g) **Garage sale signs.** Signs advertising garage sales, yard sales or house sales, on the day(s) that the sale is actually taking place, which do not exceed 4 square feet. No more than 2 signs per sale shall be permitted, with 1 sign per street frontage on the premises containing the sale.

(h) **Government signs.** Traffic signs, regulatory signs, municipal sign, legal notices, railroad crossing signs, danger signs and such temporary emergency or noncommercial signs as may be approved by the city manager or designee, governmental banners whether decorative or informational in nature.

(i) Gravestones.

(j) Historical site plaques.

(k) Inside faces of scoreboard fences or walls on athletic fields.

(l) **Interior signs.** Signs which are located on the interior of premises and which are primarily oriented to persons within the premises.
(m) **Memorial plaques or tablets.**

(n) **Monument signs.** Plaques, tablets, cornerstones, or lettering inlaid into the architectural materials of a building or structure not exceeding 4 square feet, denoting the name of that structure and date of erection.

(o) **Promotions/special displays.** A non-animated display or promotion, including the use of bunting, flags or pennants, which shall be permitted for one (1) period in each calendar year for a maximum of nine (9) days. A separate permit for such display or promotion shall be required for each instance of its use. The display of American flags shall be allowed on a permanent or temporary basis without a permit, provided that each flag does not exceed 24 square feet. The pole height shall be limited to the zoning district height limitation.

(p) **Real estate signs.** Signs pertaining to the sale, rental, management or lease of real property, referred to in this section as "real estate signs," subject to the following conditions:

(i) Real estate signs shall be non-illuminated, and no more than 1 sign per street frontage shall be posted on any property.

(ii) No real estate sign pertaining to residential property may contain more than 4 square feet, excluding the post. When computing the 4-square-foot area, any marking or symbol which identifies a real estate licensee or group of real estate licensees shall be included.

(iii) A placard stating "Open House" may be temporarily erected on or above a residential sign on the subject property and 1 off-premises directional sign may be permitted on private property.

(q) Signs or flags erected, provided, owned, authorized or required by duly constituted governmental body, including, but not limited to, traffic or similar regulatory devices, legal notices, or warnings at railroad crossings.

(r) The display of street numbers.

(39) "Sign area." (a) Sign area shall mean for all signs except on-premise attached signs (as defined in § 9-802), the area within the rectangle (or any other geometric configuration) which is defined by the larger of

(iv) The lines which include the outer extremities of all letters, figures, characters, messages, graphics or delineations on the sign structure, or

(v) The lines which include the outer extremities of the framework or background of the sign structure or device, without limitation. The support for the sign background, if it be columns, a pylon, or a building or part thereof, shall not be included in the
sign area unless it forms a part of the message of the sign to which it is attached. Other devices such as balloons, inflatables, etc. shall be included in the sign area, whether or nor forming a part of the message of the sign. On any sign structure which has multiple sign faces, any sign faces which are separated by an angle of less than sixty (60) degrees as measured from the rear of each sign face, shall be counted separately in computing sign area; if the angle of separation of the backs of sign faces exceeds sixty (60) degrees, then all such faces shall be included together in the computations of any sign area. The sign area of a sign made of individually cutout letters is the area of the rectangle necessary to enclose all such letters.

(b) For attached on-premise signs, the foregoing definition of subparagraph (a) shall also apply, except that if any word, symbol, or group of words or symbols which would otherwise be included within the rectangle defined above are separated from another word, symbol or group of words or symbols by a distance of greater than three (3) times the height of the largest letter or symbol within such word, symbol, or group of words or symbols, then separate rectangles may be used to calculate sign area, and the total of all such rectangles shall then be considered as the "sign area."

(c) The foregoing definition is applicable to all signs and when used in the context of a maximum or "not to exceed" sign area has reference to the sign area facing in any one direction. If a particular sign or sign structure faces in more than one (1) direction the maximum sign area or the "not to exceed" area refers to each side of a sign and not to the total sign area of the combined faces of the sign.

(40) "Snipe sign." Snipe sign shall mean any on-premise sign for which a permit has not been issued which is attached in any way to a utility pole, tree, rock, fence or fence post.

(41) "Special event." Special event shall mean a short-term event of unique significance not in excess of thirty (30) days; such term shall include only grand openings, health-related promotions or health-related service programs (i.e., flu shots clinic, blood donation drives, chest x-ray clinic, etc.), going-out-of-business sales, promotions sponsored by a governmental entity, fairs, school fairs, school bazaars, charity runs, festivals, religious celebrations and charity fundraisers, and shall not include other sales or promotions in the ordinary course of business.

(42) "Temporary sign." Temporary sign shall mean any on-premise sign permitted specifically and exclusively for a temporary use as allowed under the provisions of § 9-826 through § 9-827.

(43) "Wall graphics or wall murals." Wall graphics or wall murals shall mean a painted scene, figure or decorative design so as to enhance the building
architecture, and which does not include written trade names, advertising or commercial messages.

(44) "Width." Width shall mean the total measurement of the horizontal side of the rectangle or other geometric figure which is used to calculate "sign area" as specified in § 9-802. (1975 Code, § 5-802, as replaced by Ord. #03-875, June 2003, and amended by Ord. #08-938, Feb. 2008)

9-803. License required for erecting off-premises signs and detached on-premises signs. No person shall carry on the business of erecting or posting or maintaining off-premise signs or detached on-premise signs (as defined in § 9-802) without having secured a business license from the city to carry on such business. Persons holding a license under the provisions of the section of the Red Bank city code which formerly regulated this activity shall have a grace period of sixty (60) days after final passage of this chapter to obtain a new license. (1975 Code, § 5-803, as replaced by Ord. #03-875, June 2003)

9-804. Reserved. (1975 Code, § 5-804, as replaced by Ord. #03-875, June 2003)

9-805. Disposal of glue, paste, waste material. No person shall scatter, daub or leave any glue, paste, adhesive material or other like substance for affixing signs upon any street or sidewalk or public right of way or scatter or throw any old signs or waste material resulting from the erection or maintenance of signs or removal from signs on the surface of any public property, street or sidewalk or upon any private property. (1975 Code, § 5-805, as replaced by Ord. #03-875, June 2003)

9-806. Permit required to erect, maintain sign. (1) Except as specified in subsection (2) of this section, any person must obtain a sign permit from the building inspector prior to the erection, installation or material alteration of any sign. As used in the preceding sentence, the term "material alteration" shall mean any change in

(a) The height of a sign,
(b) The sign area of a sign,
(c) The location of a sign,
(d) The supporting structure of a sign,
(e) The number of words in excess of six (6) inches in height for an attached sign;

such term shall not include routine maintenance and repair or electrical work only for which an electrical permit must be obtained. Such sign permit shall be obtained in addition to any building permit otherwise required by this code.

(2) No sign permit shall be required for any of the following on-premise signs:
(a) Construction signs, as defined in § 9-802.
(b) Incidental signs, as defined in § 9-802.
(c) Wall graphics or wall murals, as defined in § 9-802.
(d) Signs advertising the sale or lease of real estate which are located upon the real estate offered for sale or lease, provided that such signs do not exceed four (4) square feet in sign area.
(e) Entrance and exit signs regulated by § 9-836.
(f) Landmark signs, as defined in § 9-802.
(g) Signs for special events as allowed in § 9-831.
(h) Banners thirty-two (32) square feet or less in sign area.

(1975 Code, § 5-806, as replaced by Ord. #03-875, June 2003)

9-807. Application for sign permit; notification to building inspector; expiration and renewal of permits. Application for the sign permit required by the proceeding section shall be made to the building inspector concurrently with an application for a building permit if required and shall be accompanied by such drawings, plans, specifications and engineering designs in compliance with the provisions of the then current Standard Building Code most recently adopted by the City of Red Bank for the proposed sign as may be necessary, in the judgment of the city inspector or city engineer, to fully advise and acquaint the building inspector and the city engineer with the proposed construction thereof. The application shall also include the owner and address of the premises where such sign is to be located, together with the size of the proposed sign, and a description of any other signs located on such premises or for which a permit has been issued and remains outstanding. Any application for a sign permit or temporary sign permit shall be approved or denied by the office of the building inspector within ten (10) business days, excluding holidays recognized by the City of Red Bank, after the filing of the application for such permit, and in the event the office of the building inspector does not approve or deny an application within said period, the applicant may refer the matter directly to the city manager who shall require action thereon. Notwithstanding the provisions of the foregoing sentence the office of the building inspector may grant contingent approval subject to on-site inspection in cases where an applicant for a temporary sign permit requires immediate attention on the application.

The owner of any sign for which a new sign permit is required, and which permit has been granted, shall notify or cause to be notified the office of the building inspector of the date the erection or material alteration of the sign will begin not less than forty-eight (48) hours prior to the beginning of such work. Such owner shall also notify or cause to be notified the office of the building inspector of the completion of such work within forty-eight (48) hours after completion of such work. The failure to give or cause to be given either of the notices set forth in this paragraph shall constitute a violation of this chapter and
shall subject any sign erected without both of the above notices having been given to abatement as a nuisance.

Any sign for which any permit has been issued but for which no substantial expenditures have been made as of the effective date of this chapter shall only be erected in accordance with the provisions of this chapter except that no additional initial permit charge will be required for any permit which has already been issued and for which a permit fee has been paid.

Any sign permit issued pursuant to this chapter for the erection of a sign shall expire ninety (90) days from the date of its issuance in the event such sign has not been fully erected within said ninety (90) days, provided, that upon good cause shown to the building inspector such permit may be renewed one time for a period not to exceed ninety (90) additional days. If a permit is requested for a location on which a valid permit is already outstanding but has not expired, and upon which no sign has been erected, and if such subsequent permit is requested by a person other than the holder of the outstanding permit, the office of the building inspector shall file, without fee, such application for the subsequent permit. In the event the outstanding permit expires without a sign being erected, as set forth above, the next valid permit application on file with the building inspector shall be processed upon payment of the required fee.

(1975 Code, § 5-807, as replaced by Ord. #03-875, June 2003)

9-808. No permits to be issued in violation of ordinances; approval of city engineer; schedule of permit fees; yearly maintenance and safety inspection fee; inventory of certain existing signs.

The building inspector shall not issue any sign permit for any sign which is not in conformance with the city code of Red Bank and applicable state laws, including but not limited to all electrical codes of the City of Red Bank or State of Tennessee; any permit issued which does not so conform will be null and void and any sign constructed pursuant thereto shall be removed in accordance with the provisions of this chapter. For all off-premise signs, freestanding on-premise and temporary signs, the building inspector shall issue no permit without the approval of the city engineer. The building inspector shall collect a permit fee with the application for each sign or sign structure. The permit fee shall be as follows:

(1) For off-premise signs, two hundred ($200.00) dollars for each such sign.

(2) For on-premise signs other than temporary signs, one hundred fifty ($150.00) dollars for each detached sign and each electric or illuminated sign, and a total of fifty ($50.00) dollars per premises for all other signs. Any on-premise sign, other than a detached sign or electric or illuminated sign, which conforms with this chapter and which replaces any other on-premise sign for which a permit has been issued hereunder, shall not require the issuance of a new permit nor the payment of the permit fee.
The owner of each off-premise sign, freestanding on-premise sign and projecting on-premise sign and/or balloons, blimps or other similar devices shall pay to the office of the building inspector an annual maintenance, compliance and safety inspection fee of twenty-five ($25.00) dollars per sign face. The annual maintenance, compliance and safety inspection for a sign shall not be collected unless and until such sign has been inspected by a representative of the office of the building inspector. The office of the building inspector may place upon any sign subject to annual maintenance, compliance and safety inspection a sticker or other device to indicate the date of such inspection, provided that such sticker or device shall not interfere with the message of such sign. The annual maintenance, compliance and safety inspection fee for each sign shall be due and payable on April 15 of each calendar year and shall be delinquent if unpaid within thirty (30) days thereafter. A ten (10%) percent annual delinquent charge shall be added to any annual maintenance, compliance and safety inspection fee which remains unpaid after May 15 of the calendar year in which such fee is due. The office of the building inspector shall cause notices of the annual maintenance, compliance and safety inspection fee to be mailed to the owner of each sign subject to such fee on or before March 15 of each calendar year and shall cause delinquency notices to be mailed as soon as possible after May 15. No new sign permit or temporary sign permit shall be issued to any owner of any sign for which the annual maintenance, compliance and safety inspection fee and the delinquent charge thereon remains unpaid after May 15 in the calendar year in which such fee became due unless such sign(s) and supporting sign structure(s) shall be abated by action of the building inspector. If the annual maintenance, compliance and safety inspection fee and the delinquent charge thereon remain unpaid on a sign more than one hundred eighty (180) days after the date of the delinquent notice, such sign shall be subject to the provisions of § 9-809, § 9-812 through § 9-815, inclusive.

Every person maintaining an off-premise sign or signs or any on-premise detached sign as of the effective date of this chapter shall, within one hundred twenty (120) days of said effective date, furnish to the office of the building inspector an inventory of all such signs; said inventory shall specify the exact location, measurements and size (including sign area as defined in § 9-802) of each sign, provided, that such persons who have previously furnished such inventory shall not be required to furnish a new inventory. In lieu of such inventory, persons maintaining such signs may furnish or mail to the office of the building inspector a photograph of each sign for which an inventory is required together with the name of the owner of the premises on which the sign is located, the occupant of such premises if different from the owner, the name of the business(es) located on such premises in the case of an on-premise sign, and the full address of such premises. The failure to file the inventory for a sign as specified herein shall create a rebuttal presumption that such sign was erected subsequent to the effective date of this chapter. (1975 Code, § 5-808, as replaced by Ord. #03-875, June 2003)
9-809. **Power to revoke permit; remedies for violation.** (1) If any sign permit is issued based upon any false or untrue information which is material to the application and the granting of a sign permit, the building inspector shall revoke any such permit and order the removal of such sign within thirty (30) days.

(2) If the building inspector determines that any sign erected pursuant to a permit issued under the provisions of this chapter is in violation of any provision of this chapter by error in the construction of the sign, the building inspector shall

(a) Notify the holder of the permit of the nature of the non-compliance and allow the holder a reasonable amount of time, but not less than fifteen (15) days nor in excess of sixty (60) days, to correct the defects giving rise to the non-compliance; or

(b) If such non-compliance cannot be corrected, to require the removal of the non-complying sign within thirty (30) days of the expiration of the period for correction specified above.

(3) If any sign is erected without a sign permit but is otherwise erected in compliance with the provisions of this code, the building inspector may upon proper application for a sign permit and payment of double the normally required permit fee issue a sign permit for such a sign, provided, however, that any such permit so issued shall in no event operate to relieve the person so erecting a sign without a permit from any penalties provided by this chapter until such permit has been issued. (1975 Code, § 5-808.1, as replaced by Ord. #03-875, June 2003)

9-810. **Owner's name required on off-premise signs.** No sign permit shall be issued to any applicant to erect an off-premise sign unless the applicant agrees to place and maintain on each such sign the name and permit number of the person or entity owning or in possession, charge or control thereof. The building inspector shall verify that the name and permit number of the person or entity owning or in control of such sign is placed upon the same forthwith upon the erection of such sign and kept thereon at all times while such sign is maintained. (1975 Code, § 5-809, as replaced by Ord. #03-875, June 2003)

9-811. **Non-conforming.** (1) Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of any prior ordinance or ordinances of the City of Red Bank, Tennessee, and such signs so erected in violation of any prior ordinance or ordinances shall be subject to removal upon notice from the city. Signs which are now in existence and were constructed in the compliance with the terms of any prior ordinance or ordinances of the City of Red Bank, Tennessee, but which are not in conformance with the provisions of this chapter are hereby designated as legal, non-conforming signs.
(2) For off-premise signs, any person owning, controlling or having a substantial ownership interest in any illegally erected or maintained non-conforming off-premise sign(s) shall remove all such illegally erected and maintained off-premise sign and its supporting structure prior to the issuance of any off-premise sign permit to such person until such person no longer owns, controls or has a substantial ownership interest in any illegally erected or maintained non-conforming off-premise signs. Evidence of the removal of an illegally erected and off-premise sign shall be furnished to the satisfaction of the building inspector. As used herein, "substantial" ownership interest shall mean any ownership interest in excess of five (5%) percent of the total ownership interest. (1975 Code, § 5-810, as replaced by Ord. #03-875, June 2003)

(3) For on-premise signs, any occupant (as defined in § 9-802) who applies for a new sign permit for any on-premise detached sign shall be required to either remove all legal non-conforming detached signs and the devices designated in § 9-802 on the area of the property occupied by such occupant, or to bring such non-conforming signs into conformance with the provisions of this chapter, before any new permit may be issued. Any occupant who applies for a new sign permit for any on-premise attached sign shall be required to either remove all legal nonconforming attached signs and the devices designated in § 9-802 on the are of the premises occupied by such occupant, or to bring such nonconforming signs into conformance with the provisions of this chapter, before any new sign permit may be issued.

(4) Notwithstanding any other provision of this chapter, any person using a portable sign, balloon sign or banner for which a temporary sign permit must be obtained on the effective date of this chapter must obtain a temporary sign permit as required by § 9-826 and § 9-827 within sixty (60) days of the effective date of this chapter and thereafter may use temporary signs only in accordance with the provisions of this chapter. (1975 Code, § 5-810, as replaced by Ord. #03-875, June 2003)

9-812. Violation declared misdemeanor; penalty. Any person who shall violate any provision of this chapter, or any person who shall fail or refuse to comply with any notice to abate or other notice issued by the building inspector within the time allowed by such notice, shall be guilty of a misdemeanor; each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. Each violation of this chapter shall be punishable by a fine of up to fifty ($50.00) dollars, and each day of continuing violation is deemed a separate and continuing offense, punishable by up to fifty ($50.00) dollars for each day of violation. (1975 Code, § 5-811, as replaced by Ord. #03-875, June 2003)

9-813. Violations declared nuisances; pre-existing violations. The maintenance of any unused sign and/or its supporting structure or any violation of the provisions of this chapter by any person is declared to be a public nuisance
dangerous to the public safety and shall be abated as set forth in this section. Any sign for which the annual safety inspection fee remains unpaid more than one hundred eighty (180) days after the delinquent notice of such fee pursuant to § 9-807 of this chapter is declared to be a public nuisance and shall be abated as set forth in this section. For the purposes of this section, "unused sign" shall include any sign which

1. Has not displayed a message or messages for more than ninety (90) days or
2. Is not kept in good structural repair or
3. For which the sign face contains a physically and/or visibly deteriorated torn, weathered, chipped, peeling message or
4. Any violations of the electrical code and/or any other applicable city adopted code, such that the sign could pose a risk to public health or safety.

Except for temporary signs regulated by § 9-826 and § 9-827 of this chapter, every sign to which the provisions of this chapter shall apply that was legally erected prior to the effective date of this chapter and was in use on said date, but which violates any of the provisions of this chapter, shall not be subject to removal, provided, that the owner of any legal nonconforming off-premise sign shall obtain (without charge) within sixty (60) days of the effective date of this chapter a permit from the building inspector which permit shall be marked on the face thereof: "non-conforming sign permit". In the event that there shall be future non-use of any legal non-conforming on-premise or off-premise sign and/or its supporting structure for more than ninety (90) days, said non-conforming sign and its supporting structure shall then be removed forthwith within the time allowed in the notice required by § 9-814 or the building inspector may cause said removal to be done as provided in this chapter. (1975 Code, § 5-812, as replaced by Ord. #03-875, June 2003)

9-814. Notice requiring abatement of violation; abatement by city lien for costs. Upon ascertaining a violation of the provisions of this chapter, the building inspector shall cause to be served upon both the offender, or his agent, and upon the owner, or his agent, or the occupant(s) of the premises, a written notice to abate such violation(s) which shall

1. Describe the conditions constituting a nuisance under this chapter, and
2. State that the nuisance may be abated by the city at the expense of the offender, and/or owner, and/or the occupant of the premises at the expiration of not less than fifteen (15) days nor more than sixty (60) days from the date of such notice if such condition is not corrected by the person in control of given to abate the constituting a nuisance be corrected or that the offender, or the owner, or the occupant, or the premises. If, at the expiration of the time the nuisance described in said notice to abate, the condition has not been corrected, then such condition may be abated by the city at the expense of the
offender and/or the owner and/or the occupant of the premises under the directions of the building inspector.

Provided further, in the event of an emergency which, in the opinion of the city inspector or city engineer justifies immediate action to protect the health and safety of persons and/or to protect property, the city may take such steps as are necessary, without notice, to abate the condition or situation. In any such event(s), the city shall have a lien on the sign structure and upon property upon which such sign is located to secure the amount expended for the abatement of such nuisance; the amount expended for the abatement of such nuisance, including attorney fees and costs of enforcement, and shall include all unpaid annual maintenance and safety inspection fees and delinquent charges due for such a sign. (1975 Code, § 5-813, as replaced by Ord. #03-875, June 2003)

9-815. Appeals. An appeal to the city manager from any adverse decision of the building inspector may be filed in writing with the city recorder within ten (10) days from any such decision; the city manager shall, within fifteen (15) days of the filing of the appeal, set a date upon which a hearing before the board shall be held; the city manager shall promptly notify the person filing the appeal of the hearing date. The decision of the city manager upon any such appeal shall be final. The provisions of this section shall not be construed to allow the city manager to grant any variance or special exception to the provisions of this chapter, and the jurisdiction of the city manager upon any such appeal shall extend only to questions of fact and to questions involving the interpretation of the provisions of this chapter. (1975 Code, § 5-814, as replaced by Ord. #03-875, June 2003)

9-816. Obscene displays on signs. No person shall post or paint, or cause to be posted or painted, or otherwise caused to be displayed so that the same can be seen from the streets or other public places of the city, any advertisements or materials containing pictures or illustrations of any obscene character. For the purpose of this section "obscene" shall have the same meaning as provided in Tennessee Code Annotated, § 39-17-901, as now enacted or hereafter amended. (1975 Code, § 5-815, as replaced by Ord. #03-875, June 2003)

9-817. Signs over streets, sidewalks; where other advertising prohibited. (1) No sign of any kind shall be permitted to project over or be suspended over or across any street or sidewalk except in accordance with the limitation provided in the definition of a "projecting sign" in § 9-802 of this chapter.

(2) No person shall paste, paint, print, rope, bill, nail or pin any sign or any advertisement or notice of any kind whatsoever or cause the same to be done, on any curbside, or in any portion or part of any sidewalk or street, tree,
lamppost, telephone or telegraph pole, awning, porch or balcony, or upon any other structure in the limits of any street or public right-of-way in the city, except such as may be required by this code or other city ordinance.

(3) When any sign of the type enumerated in this section is found in any place prohibited by this section, it shall be prima facie evidence that such sign was so placed contrary to the provisions of this section by the person to whom reference is thereby made. (1975 Code, § 5-816, as replaced by Ord. #03-875, June 2003)

9-818. Change of sign classification - removal. If for any reason an off-premise sign becomes an on-premise sign, such on-premise sign and its supporting structure shall be removed within thirty (30) days of the change of classification unless such sign is in compliance with all of the provisions of this chapter governing on-premise signs. If for any reason an on-premise sign becomes an off-premise sign, such off-premise sign and its supporting structure shall be removed within thirty (30) days unless such sign is in compliance with all of the provisions of this chapter governing off-premise signs. (1975 Code, § 5-817, as replaced by Ord. #03-875, June 2003)

9-819. Signs distracting to motor vehicle operators prohibited. Where there are entrance and exit ramps to any controlled access facility, or a confluence of traffic, or anywhere else where operators of vehicles might be required to make sudden decisions in order to safely operate their vehicles, then no signs shall be permitted or allowed that will be or are or may reasonably be distracting to drivers and thereby hazardous and dangerous to the traveling public. Additionally, and regardless of location, no off-premise or on-premise sign shall have moving parts, picture tubes, lights or illumination that vary in intensity, flash or change color, except

(1) That tri-vision off-premise signs with moving parts shall be permitted,
(2) On-premise message centers shall be allowed provided a special permit has been obtained pursuant to the provisions of this chapter, and
(3) On-premise signs displaying current time and/or temperature only through the use of lights that vary in illumination or intensity shall be allowed, provided that each display shall remain constant for a minimum of not less than four (4) seconds.

No signs that resemble any regulatory or warning traffic control device or sign as found in the latest edition of the Manual of Uniform Traffic Control Devices for Streets and Highways as now existing or hereafter amended shall be permitted. No sign shall emit any sound or sounds, audible to the human ear without amplification or exceeding ten (10) decibels. (1975 Code, § 5-820, as replaced by Ord. #03-875, June 2003)
9-820. General off-premise sign regulations. Unless otherwise provided in this chapter, the following regulations shall govern the construction and maintenance of any off-premise sign within the city.

(1) No sign shall exceed thirty-five (35) feet in height or fifty (50) feet in width, more particularly, the highest portion of a sign or sign structure shall not exceed the lower of

   (a) Thirty-five (35') feet above the closest point, measured vertically, on the grade of the slope of the real estate upon which the sign or sign structure is located if the sign or sign structure is located on a higher grade than the finished grade of the public road towards which the sign is principally oriented and from which it is principally intended to be viewed; or

   (b) If the sign or sign structure is located on the same or on a lower grade than either the roadway toward which it is principally oriented or the roadway to which it is (measured horizontally) nearer, whichever roadway is nearer, then thirty-five (35') feet above the closest point on the top of the finished grade of either the roadway toward which it is principally oriented or the roadway to which it is (measured horizontally) nearer, whichever roadway is nearer.

(2) No sign area shall exceed seven hundred fifty (750) square feet and no new off premises sign with a sign area exceeding seven hundred fifty (750) square feet shall be permitted or erected in the City of Red Bank.

(3) Sign structures supporting an off-premise sign of any size shall be spaced not less than seven hundred (700) feet apart regardless of the direction in which any such sign is facing; said spacing shall only apply to signs on the same side of the street, provided, however, that any off-premise sign located within three hundred (300) feet of the center of any intersection of two or more roads shall be spaced not less than three hundred fifty (350) feet in all directions from any other off-premises sign of any size.

(4) (Reserved)

(5) Off-premises shall be located no closer than twenty (20) feet to the closest edge of any public right-of-way, no closer than ten (10) feet to the property line of any adjacent commercially zoned real property and no closer than twenty-five (25) feet to the property line of any adjacent residentially owned property.

(6) No sign shall be erected so that the lowest portion of the sign face is less than twelve (12) feet, measured vertically, from the closest point on the grade of the real estate upon which the sign or sign structure is located.

(7) No sign shall be permitted on top of any building or rooftop.

(8) No sign face shall be permitted atop or beneath another sign face, i.e., no "stacked" signs are permitted on any sign structure, building or rooftop.

(9) No sign shall be located where prohibited or not permitted by the Red Bank Zoning Ordinance, as amended, or as may hereafter be amended.
(10) Notwithstanding any other provision contained within this section, nothing contained herein shall be construed to prohibit the erection and maintenance of a single "public interest direction marker," as otherwise defined herein by any public buildings, hospitals, places of worship, public libraries, public museums, public parks, cemeteries and/or other public facilities provided that:

(a) There shall be no more than one (1) public interest directional marker for any one entity. Such public interest directional marker shall be located only on C-1 commercial zoned private property and with written permission from the private property owner and shall under no circumstances be located on the public right-of-way for any street, road or highway.

(b) In the judgment of the city manager, or his or her designee, such public interest directional marker does not impair traffic site lines or any use of any adjacent sidewalk or right-of-way.

(c) The public interest directional marker shall not exceed two (2) square feet in total area.

(d) The owner shall provide, on forms supplied by the city, contact information for the person responsible for maintenance and a signed agreement that the sign or placard may be removed if required by the owner of the adjoining premises, and further agreeing that the city may require removal if, in its judgment, the public interest requires its removal at any time in the future.

(e) That any public interest directional marker shall be located not more than one-half (1/2) mile (two thousand six hundred forty feet (2,640')) from the nearest corner of the property of the entity to which it is intended to direct attention.

(f) Maintenance of visibility at access points. No structure, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off-street parking, landscaping, sign or other material impediment to visibility between the heights of three feet (3') and height feet (8') shall be permitted within a triangular area bounded by imaginary lines connecting three (3) points as described and illustrated below:

<table>
<thead>
<tr>
<th>Point A</th>
<th>At the intersection of any public right-of-way with another right-of-way, either public or private drive, the point of intersection nearest approaching traffic.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Point B</td>
<td>Beginning at Point A, proceeding along the boundary line of the public right-of-way toward the direction of oncoming</td>
</tr>
</tbody>
</table>
traffic for a distance of twenty-five feet (25') to a second point: Point B.

Point C  Beginning at Point A, proceeding along a line perpendicular to the public right-of-way and generally along the edge of the private driveway (or public right-of-way) toward the interior of the lot for a distance of ten feet (10') to a third point: Point C.

Example:

```
                               ┌──────────────┐
                               │ Right-of-Way  │
                               │              │
                               │              │
                               │              │
                               │              │
                               └──────────────┘

B---25'---A

  ▲ Right-of-Way
  |              |
  | or           |
  | 10' Driveway |

  i         |

  ▼         |

  C         |
```

(1975 Code, § 5-821, as replaced by Ord. #03-875, June 2003, and amended by Ord. #08-938, Feb. 2008)

**9-821. Scenic areas and scenic corridors.** This section shall govern the erection of off-premise signs and certain on-premise signs in scenic areas and scenic corridors. (1975 Code, § 5-822, as replaced by Ord. #03-875, June 2003)

**9-822. Scenic areas.** There are hereby established the following scenic areas, in which off-premise signs shall be prohibited as set forth herein: (Reserved)

(as added by Ord. #03-875, June 2003)

**9-823. Scenic corridors established.** (1) There is hereby reaffirmed and reestablished a scenic corridor, which shall consist of those certain strips of land which are located within six hundred sixty (660) feet on either side of the outermost edge of the right-of-way of U.S. Highway 27 (also known as State Route 29 and sometimes referred to as Corridor J) from the southernmost city limits to the northernmost city limits of the City of Red Bank.
(2) There are hereby established as scenic corridors, which shall consist of those certain strips of land which are located within six hundred sixty (660') feet on either side of the outermost edge of the right-of-way lines of:
   (a) Dayton Boulevard, from the southernmost city limits to the northernmost city limits of the City of Red Bank;
   (b) Ashland Terrace, from its intersection with Dayton Boulevard to the Chattanooga city limits;
   (c) Signal Mountain Road, from its intersection with Dayton Boulevard to the Chattanooga city limits.
   (d) Morrison Springs Road from Dayton Boulevard to the Chattanooga city limits. (as added by Ord. #03-875, June 2003)

9-824. Off-premise signs along scenic corridor or within scenic areas prohibited. No off-premise signs shall be permitted within the scenic corridors or within scenic areas established per the provisions of § 9-822 and § 9-823, supra. (as added by Ord. #03-875, June 2003)

9-825. Prohibited on-premises signs and devices. (1) Use of the following on-premise signs shall be prohibited:
   (a) Portable signs, except where specifically permitted for an authorized temporary use in accordance with this chapter.
   (b) Banners in excess of thirty-two (32) square feet in sign area, except where specifically permitted for an authorized temporary use in accordance with the provisions of § 9-829 and § 9-830 hereof, and provided in no event may any banner be displayed unless it is secured on all corners in a manner designed to prevent excessive movement in the wind.
   (c) Snipe signs.
   (d) Roof signs, except balloon signs which may be permitted as temporary signs under § 9-827 through § 9-830 of this chapter.
   (e) Any sign printed on or attached to a vehicle and used as a stationary sign.
   (f) Freestanding signs with moving parts, flashing or blinking lights, animation or sound-emitting devices (excluding two-way communication devices used solely for such two-way communication), except
      (i) That permanently attached message centers shall be permitted, provided, that a special permit is obtained pursuant to this chapter, and
      (ii) That signs displaying current time and/or temperature only through the use of lights that vary in illumination or intensity shall be allowed, provided, that each display shall remain constant for a minimum of at least four (4) seconds.
(2) Except as provided in § 9-839 the use of streamers, pennants, pinwheels, flags (other than those permitted by § 9-839), tinsel and any other device which hangs freely and is intended to be wind-activated or to circulate, flap, rotate, blow or otherwise be put in motion by the wind shall be prohibited. The devices prohibited by this subsection (2) may be maintained following the effective date of this chapter but shall not be replaced following the effective date of this chapter, provided, however, that all devices (excepting flags as otherwise permitted by § 9-839) prohibited by this subsection (2) shall be removed no later than twelve (12) months after the effective date of this chapter.

(3) Any sign with a sign area exceeding one hundred seventy-five (175) square feet. (as added by Ord. #03-875, June 2003)

9-826. Authorized use of temporary signs, banners and special events. Banners in excess of thirty-two (32) square feet, portable signs and balloon and inflatable signs shall be allowed on-premise for certain temporary uses only. A temporary sign permit shall be required prior to placement or erection of such sign or banner. Each occupant of a premises shall be entitled to obtain a temporary sign permit. Any such temporary sign permit shall be issued only in accordance with the following:

(1) Permit fee and display of permit. A permit fee of ten ($10.00) dollars shall be charged for the issuance of each temporary sign permit and upon issuance such temporary sign permit shall be securely affixed to and readily viewable on the temporary sign.

(2) Limit on use of temporary signs. No person or occupant shall be eligible for issuance of temporary sign for more than a total of one hundred five (105) days during any calendar year, and no occupant or premises shall be allowed to use more than one (1) temporary sign at a time.

(3) Time limit for display of temporary signs. All temporary sign permits shall state an effective date and an expiration date; such permits shall be issued only for fifteen (15) or thirty (30) day increments. Any temporary sign and its supporting structure (including balloons) permitted under this chapter shall be removed at or before 11:59 P.M. of the expiration date on the temporary sign permit notwithstanding any other provision of this chapter, unless the temporary sign permit for such sign is renewed as set forth in subsection (5). No occupant may obtain a temporary sign permit until the expiration of thirty (30) days from the end of such occupant's last temporary sign permit period or renewal period, whichever is later.

(4) Size and placement of temporary signs. No temporary sign shall exceed three hundred (300) square feet in sign area. No temporary sign shall be placed closer than ten (10) feet to any public right-of-way, and no temporary sign may be placed in any public parking space. No part of any temporary sign may be located within forty (40) feet of two (2) public rights-of-way.

(5) Renewal of permit. A 15-day temporary sign permit may be renewed once for an additional consecutive fifteen (15) day period; such renewal
may be made by telephoning or visiting the office of the building inspector prior to the expiration date of the initial permit, and no fee shall be charged for such renewal. (as added by Ord. #03-875, June 2003)

9-827. Removal of temporary signs. Notwithstanding any provision of this chapter to the contrary, the building inspector shall, upon ascertaining a violation of the provisions of this chapter, cause a written notice to abate such nuisance to be served upon the offender, or his agent, and upon the owner or occupant of the premises and/or to be such notice shall require, abatement of such nuisance within not less than twenty-four (24) nor more than forty-eight (48) hours from the time of such notice. Notwithstanding the foregoing, if a violation of the provisions of this chapter is willful and intentional the building inspector shall issue a citation to city court to such offender in addition to or in lieu of any notice to abate served upon such offender. (as added by Ord. #03-875, June 2003)

9-828. Balloon signs. No balloon or other inflatable device upon which a balloon sign is displayed shall exceed a height of thirty (30) feet above the lowest point of the ground or building over which the balloon is situated. No more than two (2) banner signs will be permitted on any balloon. No part of any balloon sign or balloon shall be located closer than thirty (30) feet from any public right-of-way. Any banner sign affixed to a balloon must be mounted flush to the balloon. A banner sign attached to a balloon may not exceed on hundred twenty (120) square feet in surface area, provided, however, that any banner sign attached to a balloon any part of which is within sixty (60) feet of any public right-of-way may not exceed one hundred (100) square feet in surface area. (as added by Ord. #03-875, June 2003)

9-829. Banners. Banners which are not in excess of thirty-two (32) square feet in sign area shall require no sign permit but shall be subject to the remaining provisions of this chapter, provided, however, that such banners shall not be used in computing sign area for the purposes of § 9-830(1) or § 9-831. Banners shall be allowed as on-premise signs only. An occupant may display only one (1) banner (whether attached or detached), regardless of sign area, at a time. (as added by Ord. #03-875, June 2003)

9-830. Special events. (1) The sponsor of a special event lasting three (3) days or less shall not be required to obtain a sign permit but shall notify the building inspector of such event in writing no less than five (5) business days before the beginning of such event; such notification shall include the name of the sponsor, the location of the event, the owner of the location, the dates of the event, and the type of special event. The sponsor of a special event lasting more than three (3) but no more than thirty (30) days shall obtain a special permit
from the board of sign appeals prior to the beginning of such event. Such special permits shall be granted only in increments of fifteen (15) days.

(2) The sponsor of a special event may use temporary on-premise signs, flags, lights, pennants, streamers, balloons, balloon signs and banners during the special event provided, that the use of such signs and devices shall be subject to §§ 9-816, 9-817, 9-819, 9-827, 9-828, 9-835 and 9-836 of this chapter and to any conditions placed upon such used by the city manager where a special permit must be obtained.

(3) No part of any sign or other device for a special event may be placed closer than ten (10) feet to any open public right-of-way. No part of any sign or other device for a special event may be located within forty (40) feet of two (2) open public rights-of-way.

(4) All signs and other devices for a special event shall be promptly removed after the end of the special event and in no case shall such signs and devices remain on display longer than thirty-six (36) hours after the end of the special event.

(5) No sponsor may display signs and devices for special events pursuant to this section on the same premises for more than a cumulative total of thirty (30), days per calendar year. No occupant may display signs and devices for special events pursuant to this section for more than a cumulative total of thirty-six (36) days per calendar year. Each special event lasting three (3) days or less shall be counted as three (3) days for the purposes of this section.

(as added by Ord. #03-875, June 2003)

9-831. General regulation of permanent on-premises signs. Other than signs which are prohibited under the provisions of this chapter or which are permitted as temporary signs pursuant to this chapter, the section hereinafter shall regulate the general use of on-premise signs. (as added by Ord. #03-875, June 2003)

9-832. Number and size of permitted on-premise signs. (1) Each premises shall be allowed no more than two (2) detached signs for each public street upon which the premises fronts (excluding public and private alleyways), provided that not more than two (2) detached signs shall be primarily oriented towards any such public street.

(2) In addition, each occupant of a premises who leases a building which is freestanding and unattached to any other building on such premises shall also be allowed one (1) detached sign for each public street upon which occupant’s building fronts, provided that such sign is located within the area leased to occupant and oriented towards such public street.

(3) Notwithstanding the provisions of subsections (1) and (2), if a detached sign is maintained on premises which fronts upon two (2) or more public streets and any part of such sign is located within fifty (50) feet of the
closest edge of the intersecting right-of-way of two (2) or more public streets, only one (1) detached sign shall be allowed for such premises.

(4) In addition to any detached sign permitted above, on any premises where goods and/or services are offered from a "drive-thru" window or which may otherwise be purchased by a person without the necessity of exiting his or her motor vehicle, one (1) additional detached sign not in excess of eight (8) feet in height or in excess of thirty-two (32) square feet in sign area shall be permitted.

(5) The number of attached signs for a premises, or for each occupant of a premises, shall not be limited, but the total sign area of attached signs shall not exceed twenty (20%) percent of the area of the facade to which the signs are attached. The number of words in an attached sign (excluding a message center) shall not be limited, but not more than eight (8) words attached to a facade may contain any letters in excess of six (6) inches in height. If any premises is entitled to use a detached sign pursuant hereto but does not do so, then the total sign area of attached signs an each facade may be increased but shall in no event exceed thirty (30%) percent of the area of the facade to which the signs are attached.

(6) For the purpose of this section, "word" shall mean any word, number, abbreviation, trademark, symbol or name. The purpose of this section may not be circumvented by combining words which are ordinarily separated to make one word such as "gasforless", and in such case, each separate letter shall be counted as a word. (as added by Ord. #03-875, June 2003, and amended by Ord. #04-894, Aug. 2004)

9-833. Maximum size limitations for detached signs. (1) The permitted size of a detached sign shall be determined in accordance with the distance which such sign is set back from the right-of-way as specified in § 9-834 but the sign area of a detached sign (whether a freestanding sign or projecting sign) shall not exceed one hundred seventy-five (175) square feet in size per sign face, except as provided for in § 9-833(2), below. The sign area of a detached sign shall be calculated in accordance with the provisions of the defined term "sign area" in § 9-802 of this chapter except that the dimensions of any reader board shall be calculated individually and not as if the reader board were included within the rectangular sign area of any other sign. If, instead of being supported by a simple pole or beam system, a freestanding sign is supported by or attached to any other type of freestanding opaque structure which serves as a background for the sign and obscures vision through such structure, then the structure shall itself be included in determining the size of the sign.

(2) For premises which have frontage along any single public road or public right-of-way in excess of three hundred fifty (350) linear feet along such road or right-of-way and which have more than two (2) occupants, all of the provisions of § 9-833(1) shall apply, except that the sign area of a freestanding
sign located along such frontage shall not exceed three hundred (300) square feet. In addition, if any premise which has more than two (2) occupants has less than three hundred fifty (350) linear feet of frontage along a public road or public right-of-way but has a developed store or building frontage of greater than five hundred (500) linear feet, then the sign area of a detached sign shall not exceed three hundred (300) square feet. (as added by Ord. #03-875, June 2003)

9-834. **Set-back requirements for detached signs.** No detached sign may be closer than ten (10) feet to any street or right-of-way; no detached sign with a sign area larger than forty (40) square feet may be closer than fifteen (15) feet to any street or right-of-way; and no detached sign which is larger than one hundred (100) square feet may be closer than twenty (20) feet to any street or right-of-way. Notwithstanding the foregoing set-back limitations, any projecting sign which is attached to a building whose building line adjoins a public sidewalk or public right-of-way may extend out over the public sidewalk or right-of-way, but no over any public street and not in excess of the distance otherwise permitted hereunder. Notwithstanding the foregoing, any owner from whose property any sign may project over any public right-of-way shall, prior to erecting or installing such sign, obtain a temporary use permit from the city subject to such conditions as may be required by the board of commissioners. (as added by Ord. #03-875, June 2003)

9-835. **Minimum and maximum height limitations on detached signs.** All projecting signs shall have a minimum clearance between the ground and the lowest portion of such sign of not less than ten (10) feet. A freestanding sign or its supporting structure whose closest point is located no closer than ten (10) feet from any right-of-way may not exceed twenty (20) feet in height above the adjacent public right-of-way at its closest point. For each additional foot of set-back beyond (10) feet from the right-of-way, a freestanding sign may extend an additional one (1) foot in height above the level of the adjacent public right-of-way at its closest point, up to a maximum of thirty (30) feet in height. Notwithstanding the foregoing provisions of this section, in the event a freestanding sign is placed on ground which is higher than the closest point on the adjacent public right-of-way, the maximum height of such sign shall be measured from the lowest point of the ground over which such sign is located, if, and only if, every part of such sign and its supporting structure is located within fifty (50) feet of the closest adjacent public right-of-way. (as added by Ord. #03-875, June 2003)

9-836. **Traffic directional signs.** The number, height and set-back limitations in §§ 9-832, 9-833, 9-834 and 9-835 above shall not apply to on-premise entrance, exit or other directional traffic signs at any premises, provided that no such directional sign shall exceed thirty (30) inches in height
nor more than six (6.0) square feet in sign area, and further provided that no such signs shall contain any words other than customary motor vehicle or pedestrian traffic directional instructions, and shall not otherwise, in the judgment of the city manager or his/her designee, obstruct traffic sight lines or otherwise impair traffic movement. (as added by Ord. #03-875, June 2003)

9-837. **Directional signs on hospital premises.** The restrictions of §§ 9-832, 9-833, 9-834, 9-835 and 9-836 shall not apply to on-premise directional signs located on the premises of any hospital, medical center or clinic which offers emergency medical care, provided such signs shall not otherwise obstruct traffic sight lines or otherwise impair traffic movement and shall not exceed fifty (50) feet in height above the nearest roadway. (as added by Ord. #03-875, June 2003)

9-838. **Maintenance of on-premises signs.** All on-premise signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective or deteriorated parts shall be replaced. The building inspector shall order the removal of any on-premise sign which is defective, damaged or substantially deteriorated pursuant to this chapter. (as added by Ord. #03-875, June 2003)

9-839. **Flags.** In addition to the display of flags of the United States, any state of the United States, the County of Hamilton and/or the City of Red Bank, each premises may display one (1) additional flag as an on-premise sign provided that such additional flag shall not exceed ninety-six (96) square feet in surface area and provided further that in no case shall such additional flag exceed the size of the flag of the United States displayed on the same premises. Such additional flag may be displayed only on a flagpole and only when the flag of the United States, a state, the County of Hamilton or the City of Red Bank is being displayed on a flagpole. At no time may such additional flag be secured by any means on more than one (1) side of the flag. The foregoing limitation on the display of flags shall not apply to stadia or athletic fields in which sporting events are routinely held. (as added by Ord. #03-875, June 2003)

9-840. **Compliance and corrective provisions.** (1) Notwithstanding any other provisions of this chapter, the following regulations shall govern the alteration and maintenance of any existing on premises or existing legal non-conforming off premises signs. Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of any prior ordinance or ordinances of the City of Red Bank, Tennessee, and such signs so erected in violation of any prior ordinance or ordinances shall be subject to removal as provided in this section. Signs which are now in existence and were constructed in compliance with the terms of any prior ordinance or ordinances of the City of Red Bank,
Tennessee, but which are not in conformance with the provisions of this chapter are hereby designated as legal, non-conforming signs, and shall be abated and removed hereafter in accordance with this section.

(2) For on-premises signs, any occupant who applies for a new sign permit for any on-premises detached sign shall be required to either remove or cause the removal of all legal nonconforming detached signs and the devices designated in or on the area of the property occupied by such occupant, or to bring all nonconforming signs on that property into conformance with the provisions of this chapter, before any new permit may be issued. Any occupant who applies for a new sign permit for any on-premises attached sign shall be required to either remove all legal nonconforming attached signs in or on the area of the premises occupied by such occupant, or to bring such nonconforming signs into conformance with the provisions of this chapter, before any new sign permit may be issued. For the purpose of this subsection, the term "property" is intended to mean the entire tract of real property which has been assigned a separate tax map and parcel number and is not intended to be limited to a separate unit of a multi-unit property.

(3) A nonconforming sign shall be made conforming if one of the following situations occur:
   (a) Any modification of sign appearance, other than normal maintenance necessary to retain the original structure of the sign; or
   (b) Removal of the sign, except when removal is done for maintenance and the sign is re-erected within fourteen (14) days; or
   (c) Destruction or deterioration of the sign to an extent that the current cost of repair exceeds fifty percent (50%) of the current cost of constructing a new sign which duplicates the old; or,
   (d) Any sign prohibited by the adoption of this chapter shall be removed within ninety (90) days from written notification if erected, constructed or placed subsequent to the adoption of this chapter. (as added by Ord. #03-875, June 2003)

9-841. Various building and safety codes applicable. Notwithstanding any other provision of this chapter the various building and safety codes of the City of Red Bank, as now enacted or hereafter adopted or amended, including but not limited to the electrical code, shall be applicable to all signs and sign structures. (as added by Ord. #03-875, June 2003)

9-842. Political signs regulated. (1) Scope of article - definition of political sign. Notwithstanding anything in this chapter to the contrary, the provisions of this chapter shall govern the use and placement of political signs. "Political sign" shall mean any sign which supports or opposes the candidacy of any candidate for public office or urges action on any other issue on the ballot of a primary, general or special election.
(2) Political signs regulated. Political signs with a sign area of more than 32 square feet shall be subject to the provisions of this code and/or this chapter governing off-premises signs, provided, that any political sign at campaign headquarters shall be governed as on-premises signs. Political signs with a sign area of 32 square feet or less shall be subject to the following restrictions:

(a) No such political sign may be placed closer than 7 feet to the pavement or curb of any public or private street, except that poster type signs, no large than 14" (fourteen inches) by 22" (twenty-two inches) may be placed not closer than 3 feet from the pavement or curb of any public or private street.

(b) No such political sign may be placed closer than 25 feet to the closet edge of the pavement or curb of two (2) intersecting public or private streets.

(c) No such political sign may be placed upon or attached in any way to any tree, fence, fence post, utility pole, light pole or rock located on public property or upon the right-of-way on any street.

(d) All such political signs shall be removed within fifteen days after the election to which they refer has been held. Such signs erected for a primary election may remain only if they continue to be valid for the next general election.

(e) The offices of the building inspector of the city manager may order the removal or relocation of any such sign which, in its or their opinion, may constitute a hazard to the public traveling on public streets.

(f) No such sign shall be located in a position which is principally designed to be viewed from a controlled access facility.

(g) No such sign may be placed upon a public sidewalk.

(h) Any person or organization planning to erect such political signs shall first file with the office of the building inspector the name, address and telephone number of the person or persons who shall be responsible for the proper erection and timely removal of such signs.

(i) Penalty - Any person, firm, corporation or entity violating the provisions hereof may be fined in the amount of up to $5.00 for each violation. In the case of continuing violations, each day shall constitute a separate violation(s). (as added by Ord. #03-875, June 2003)

8-843. Set back variances and procedures. (1) The city commission shall have the authority to grant a limited variance and to lessen the applicable set back requirements by up to five (5) feet from the right-of-way set back requirements for on premises detached signs as otherwise set forth in § 9-834.

(2) No variance shall be issued except upon:

(a) Written application by the owner to the city commission on forms furnished by the city;
(b) Written notice of the application and the date and time of public hearing being issued to all adjoining land owners within two hundred (200') feet of the premises for which the application is pending.

(c) A public hearing shall be advertised and held when the application will be considered and a finding by a majority of the commissioners that

(i) Multiple legal non-conforming signs exist upon adjacent properties within 200 feet of the requested location which would effectively block the view of the proposed on premises detached sign if a variance were not granted;

(ii) The location of the proposed detached on premises sign will not impede visibility and/or traffic flow on the adjacent public street and will not impair vehicular traffic or pedestrian traffic, from a safety and traffic visibility standpoint, for ingress to or egress from the property upon which the proposed sign is to be located.

(d) In no case shall the applicable set back distance be lessened by more than five (5') feet;

(e) In no case shall the applicable set back distance be lessened so as to permit a sign to be located any closer than five (5') feet to any sidewalk;

(f) The placement of the proposed sign will not block or impair the view of any existing legal non-conforming sign from the adjacent public road;

(g) In no case shall the variance be granted if it would violate any other signage separation distance requirements or the other provisions of the "sign ordinance".

(3) Any premises owner desiring to obtain a variance shall obtain and file an application to the city manager's office with detailed plans, drawing and scaled distances showing the size and proposed location of the sign, and shall pay an application fee of $100.00 to defer the cost of notice to adjoining land owners and for the review of the application and requirements. (as added by Ord. #04-893, Aug. 2004)
CHAPTER 9
SECONDHAND DEALERS

SECTION
9-901. To keep record of merchandise.
9-902. Police inspection of record authorized.
9-903. To identify sellers of merchandise; purchases from minors.
9-904. Stolen property to be returned without charge.
9-905. Violations.

9-901. To keep record of merchandise. Any person, corporation, or partnership, operating a business dealing in secondhand or used merchandise, within the City of Red Bank, shall keep a book in which shall be legibly written in ink, or typed, in the English language, an accurate account and description of the merchandise herein described, and the name of such person selling or trading such merchandise, and no entry made in such book shall be erased, obliterated, or defaced.

Merchandise covered by this chapter is defined to be tools, furs, jewelry, antiques, coins or monies, musical instruments, collectible knives, firearms (including antiques), television sets, stereo components, electrical appliances, and all other such items which can be identified by serial number. (1975 Code, § 5-901)

9-902. Police inspection of record authorized. The book required in § 9-901 shall, at reasonable times, be open to the inspection of any police officer of the City of Red Bank. (1975 Code, § 5-902)

9-903. To identify sellers of merchandise; purchases from minors. If such dealer does not know the person offering to sell merchandise, he shall make inquiry to learn the name of such person and shall require the production of appropriate identification and shall note in said book the address of such person. Any purchase from a minor shall be with the approval of the parent or guardian of such minor. (1975 Code, § 5-903)

9-904. Stolen property to be returned without charge. If any person is found to be the owner of stolen property which has been sold to any such dealer, such property shall be returned to the owner thereof without the payment of the amount advanced or paid by the dealer or any costs or charges of any kind which such dealer may have placed upon the same. (1975 Code, § 5-904)

9-905. Violations. It shall be unlawful for any person, corporation, or partnership, or any agent or employee of same, to violate any of the provisions
of this chapter. Upon two convictions, the license of said person, corporation, or partnership may be revoked. (1975 Code, § 5-905)
CHAPTER 10

MASSAGE PARLORS AND TECHNICIANS

SECTION
9-1001. Definitions. For the purposes of this chapter the following phrases and words shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning.

(1) "Massage." The administering by any person by any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, and/or the rubbing, stroking, kneading, pounding, tapping, or otherwise manipulating a part or the whole of the human body or the muscles or joints thereof, by any physical or mechanical means. Massage shall also mean the giving, receiving, or administering of a bath to any person, or the application of body paint or other colorant to any person.

(2) "Massage parlors." Any premises, place of business, or membership club where there is conducted the business or activity of furnishing, providing or giving for a fee, or any other form of consideration, a massage, bath, body painting, or similar massage service or procedure. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a
duly licensed physician, surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barbershop or beauty salon operated by a duly licensed barber or cosmetologist, so long as any massage administered therein is limited to the head and neck.

(3) "Massage technician." Any person who administers a massage to another at a massage parlor. (1975 Code, § 5-1001, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1002. Massage parlor permit—required. It shall be unlawful for any person to establish, maintain or operate a massage parlor in the city without a valid permit issued pursuant to this chapter or any prior ordinance. (1975 Code, § 5-1002, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1003. Same—application; renewals; fees. (1) Any person desiring a massage parlor permit to establish, maintain or operate a massage parlor in the city shall make application to the city manager. Each massage parlor permit application shall be accompanied by an investigation fee of one hundred dollars ($100.00), payable to the city manager. Each massage parlor permit shall expire one year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of fifty dollars ($50.00). Each such application shall contain the name, address and telephone number of the place where the applicant proposes to operate, maintain or establish a massage parlor in the city.

(2) In addition, such application shall include a sworn statement as to whether or not the applicant (if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director or manager thereof, or any shareholder) has been convicted, pleaded nolo contendere, or suffered a forfeiture a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in any other jurisdiction.

(3) The application shall state thereon that: "It is unlawful for any person to make a false statement on this application, and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit."

(4) Each applicant shall have his fingerprints taken, which fingerprints shall constitute part of the application.

(5) A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall be not less than two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filled with the application. (1975 Code, § 5-1003, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)
9-1004. Same—investigation of applicant; grounds for denial of application. (1) Upon receipt of the application and fee as provided for in § 9-1003 of this code, the city manager shall request the chief of police to make or cause to be made a thorough investigation of the criminal record of the applicant (if the applicant is a partnership or association, all partners or members thereof, or if the applicant is a corporation, all officers, directors and managers thereof, and all shareholders). The result of this investigation shall be submitted by the city manager within thirty (30) days of the request.

(2) The city manager shall deny any application for a massage parlor permit under this chapter after notice and hearing if the city manager finds that the applicant (if the applicant is a partnership, association or limited liability entity, any partner or member thereof, or if the applicant is a corporation, any officer, director or manager thereof, or shareholder) has within a period of two (2) years prior to application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall also be grounds for denial of this application. Notice of the hearing before the city manager for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (1975 Code, § 5-1004, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1005. Same—investigation of premises and issuance. The city manager, before issuing any massage parlor permit, shall cause in investigation to be made of the premises named and described in the application for a massage parlor permit under this chapter for the purpose of determining whether the massage parlor complies with the provisions of this chapter, the zoning ordinances, all building, fire, plumbing and electrical codes, and, for this purpose, a copy of the application shall immediately be referred to the building officials to make or cause to be made a thorough investigation of the premises and the result of this investigation and whether such premises comply with the zoning, building, fire, plumbing and electrical codes, shall be submitted to the city manager within thirty (30) days of the request. (1975 Code, § 5-1005, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1006. Display. Every person to whom a massage parlor permit shall have been granted shall display such massage parlor permit in a conspicuous place in the massage parlor or establishment so that it may be readily seen by persons entering the premises. (1975 Code, § 5-1006, as repealed by Ord.
9-1007. Same—revocation; grounds; notice to permittee. (1) Power generally. The city manager shall have the power to revoke or suspend for any period of time up to two (2) years, and shall be charged with the duty of revoking or suspending, any massage parlor permit after notice to permittee and hearing upon any grounds set forth in this section.

(2) Grounds. The following shall be deemed good and sufficient grounds for revocation or suspension of massage parlor permit:

(a) Upon evidence presented that the permittee (if the permittee is a partnership or association, any partner or member thereof, or if the permittee is a corporation, any officer, director, or manager thereof, or shareholder, or if the permittee is a limited liability entity, any member or manager thereof) has within a period of two (2) years been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provisions of this chapter on a charge of violating a similar law or ordinance of this or any other jurisdiction.

(b) Discovery by the city manager of a false statement on the application.

(c) Upon evidence presented before the city manager that the permittee (if the permittee is a partnership or association, any partner or member thereof; or if the permittee is a corporation, any officer, director or manager thereof, or shareholder, or if the permittee is a limited liability entity, any member or manager thereof) has within a period of one (1) year violated any provisions of this chapter or any other ordinance of this city or any city of this state or laws of the state relating to sexual offenses, prostitution, obscenity, or other similar offenses.

(d) Upon evidence presented before the city manager establishing that within a period of one (1) year any massage technician or other agent or person under the control or supervision of the permittee has violated any provisions of this chapter or violated any other ordinance of the city laws of the state relating to sexual offenses, prostitution, obscenity or similar offenses.

(3) Notice of hearing. Note of hearing before the city manager for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (1975 Code, § 5-1007, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)
9-1008. **Massage parlor technician permit—required.** It shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid permit issued pursuant to this chapter or any prior ordinance. (1975 Code, § 5-1008, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1009. **Same—application; renewal; fees.** (1) Any person desiring a permit to perform the services of a massage technician at a massage parlor in the city shall make application in triplicate form to the city manager, who shall immediately refer one copy of same to the chief of police. Each such application shall state under oath the name, address, telephone number, last previous address, date of birth, place of birth, height, weight, and current and last previous employment of the applicant. In addition, such application has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in any other jurisdiction.

(2) The application shall state thereon that: "It is unlawful for any person to make a false statement on this application, and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit."

(3) Each applicant shall have his or her fingerprints taken, which fingerprints shall constitute part of the application.

(4) A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall not be less than two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filed with the application.

(5) Each massage technician permit shall expire one year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of fifty dollars ($50.00). (1975 Code, § 5-1009, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1010. **Same—investigation of applicant; grounds for denial of application.** (1) Upon receipt of the application and fee as provided for in § 9-1009 of this code, the city manager shall request the chief of police to make or cause to be made a thorough investigation of the criminal record of the applicant. The result of this investigation shall be submitted to the city manager within thirty (30) days of the request.

(2) The city manager shall deny any application for a massage technician permit under this chapter after notice and hearing, if the city manager finds that the applicant has within a period of two (2) years prior to his application been convicted, pleaded nolo contendere, or suffered a forfeiture on
9-1011. **Same—display.** Every person to whom a massage technician permit shall have been granted shall, while in a massage parlor, carry on his or her person or display in a conspicuous place in the massage parlor or establishment, such massage technician permit. (1975 Code, § 5-1011, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1012. **Same—revocation; grounds; notice to permittee.** Any massage technician permit granted under this chapter shall be revoked by the city manager after notice and hearing if the permittee has within a period of two (2) years been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. Discovery of a false statement on the application shall also be grounds for revocation of the permit. Notice of the hearing before the city manager or revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (1975 Code, § 5-1012, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1013. **Suspension of permits; reinstatement.** If the chief of police or the city manager or their duly authorized representatives, find that a massage parlor or a massage technician is not in compliance with the requirements set forth in this chapter, or the permittee has refused the chief of police, the city manager, or their duly authorized representatives the right to enter the premises to enforce the provisions of this chapter, upon report to the city manager he may enter any order for the immediate suspension of the massage parlor permit or massage technician permit, as the case may be, until such time as he finds that the reason for such suspension no longer exists. A copy of the order shall be sent to the massage parlor and/or the massage technician at his or her place of business by certified mail, which order shall set
forth the reasons for such suspension. No person shall operate a massage parlor or perform the services of a massage technician at a massage parlor when subject to an order of suspension. The city manager shall reinstate a suspended permit when he has been satisfied that the massage parlor or massage technician complies with the applicable provisions of this chapter. (1975 Code, § 5-1013, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1014. Appeals from permit denials, suspensions or revocations. Any applicant or permittee aggrieved by the actions of the city manager in the denial of an application for a massage parlor permit or massage technician permit, or by the decision of the city manager with reference to the revocation or suspension of a massage establishment permit or massage technician permit, shall have the right to appeal to the city commission. Such appeal shall be taken by filing with the city manager, within ten (10) days after the action complained of has been taken, a written statement setting forth fully the grounds for appeal. The city manager shall forthwith notify the city commission, which shall schedule a public hearing and shall give notice of such hearing to the appellant. The city commission may reverse or affirm or may modify any decision of the city manager, and may make such decisions or impose such conditions as the facts may warrant; and it may order that a permit be granted, suspended or revoked. The decision and order of the city commission on such appeal shall be final and conclusive. (1975 Code, § 5-1014, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1015. Public health card required for a massage technician. It shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid public health card issued pursuant to this chapter or any prior ordinance. (1975 Code, § 5-1015, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1016. Examination of massage techniques; issuance of public health card. (1) All persons who desire to perform the services of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest x-ray which is to be made and interpreted by a trained radiologist, and shall furnish a certificate based upon and issued within thirty (30) days of such examination by the Chattanooga-Hamilton County health department and stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the city manager the
(2) When there is cause to believe that the massage technician is capable of communicating any contagious disease to others, the city manager may at any time require an immediate physical examination of any such person.

(3) The employer of any such person shall require all such persons to undergo the examination and obtain the certificate provided by this section, shall register at the place of employment the name and date of employment of each employee, and shall have the health cards and registration of all employees available for the chief of police, or the city manager, or their duly authorized representative at all reasonable times. (1975 Code, § 5-1016, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1017. Right of entry. The chief of police or the city manager or their duly authorized representatives are hereby authorized to enter, examine and survey any premises in the city for which a massage parlor permit has been issued pursuant to this article to enforce the provisions of this chapter, and for no other purpose. Should the authority to inspect premises be delegated to another person, such person shall be proved with written delegation of authority to be shown to the permittee upon request at the time of inspection. If such inspection reveals conditions which in the opinion of the inspector warrants a more thorough inspection by the building official, the Chattanooga-Hamilton County health department, the bureau of fire prevention, or similar person or agency charged with responsibility for the enforcement of particular health and safety ordinances or laws of the city or the state, he shall report such condition to such person or agency and request that such premises be examined and any findings be reported to the chief of police and the city manager. This section shall not be deemed to restrict or to limit the right of entry otherwise vested in any law enforcement of health and safety or criminal laws wherein such right of entry is vested by other ordinances or laws. (1975 Code, § 5-1017, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1018. Minimum standards for parlors. No massage parlor shall be operated, established or maintained in the city that does not comply with the following minimum standards:

(1) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instrument and materials shall be disinfected after use on each patron.

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

(3) Clean linin and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

(4) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected.

(5) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(6) Adequate bathing, dressing, locker and toilet facilities shall be provided for the patrons to be served at any given time. Separate bathing, dressing, locker and toilet facilities shall be provided for male and female patrons.

(7) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

(8) The premises shall be equipped with a service sink for custodial services.

(9) Eating in the massage work areas shall not be permitted.

(10) Animals, except for seeing eye dogs, shall not be permitted in the massage work areas.

(11) No massage parlor shall employ a massage technician who does not comply with the provisions of this chapter. (1975 Code, § 5-1018, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1019. Individual health requirements for technicians. No massage technician shall administer massage at a massage parlor who does not comply with the following individual health requirements:

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

(2) No massage technician shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption; provided that a physician duly licensed by the state may certify that such person may be safety massaged, and prescribing the conditions thereof.

(3) Each massage technician shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each person. (as renumbered by Ord. #00-803, Feb. 2000, and added by Ord. #97-759, Dec. 1997)
9-1020. **Unlawful acts.** (1) It shall be unlawful for any person in a massage parlor to place his or her hand or hands upon or to touch with any part of his or her body, or to fondle in any manner, or to massage, a sexual or genital part of any other person.

(2) It shall be unlawful for any person in a massage parlor to expose his or her sexual or genitals parts, or any portion thereof, to any other person of the opposite sex.

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

(4) It shall be unlawful for any person owning, operating or managing parlor knowingly to cause, allow or permit in or about such massage parlor any agent, employee, or any other person under his control or supervision to perform such acts prohibited in this chapter.

(5) Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breast of a female.

(6) Every person owning, operating or managing a massage parlor shall post a copy of this chapter in a conspicuous place in the massage parlor so that it may be readily seen by persons entering the premises.

(7) It shall be unlawful for any massage parlor to provide massage services at any time between the hours of 9:00 P.M. to 7:00 A.M. and on Sundays; however, it shall be lawful for such establishments to remain open for the transaction of other lawful business.

(8) The administering of massage shall not be conducted in private rooms or areas, but shall be conducted in separate general areas for males and females, or if the same general area is used by both male and female customers, then different times for such separate use shall be designated and posted.

(9) It shall be unlawful for any person in a massage parlor to administer a massage to a person of the opposite sex. (as renumbered by Ord. #00-803, Feb. 2000, and added by Ord. #97-759, Dec. 1997)

9-1021. **Alcoholic beverages.** No beer or alcoholic beverages may be sold, served or consumed upon any premises holding a license as of provided for in this chapter. (as renumbered by Ord. #00-803, Feb. 2000, and added by Ord. #97-759, Dec. 1997)

9-1022. **Penalty.** Any person violating any of the provisions of this chapter, upon conviction by the court, shall be imprisoned for not less than fifteen (15) days nor more than thirty (30) days, and shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00), for each violation, and each day of violation of any provision of this chapter shall constitute a separate offense. (as renumbered by Ord. #00-803, Feb. 2000, and added by Ord. #97-759, Dec. 1997)
CHAPTER 11

PROFESSIONAL TREE TRIMMERS AND LANDSCAPING

SECTION
9-1101. Permit required.
9-1102. Application for license.
9-1103. Disposal of trees, brush, etc.
9-1104. Violations--penalty.

9-1101. Permit required. All persons engaging or intending to engage in the business of trimming or removing trees, brush, hedges, or similar vegetation, and all persons engaged in, or intending to engage in the business of landscaping within the City of Red Bank, shall first obtain a permit from the city recorder, authorizing such activity. (1975 Code, § 5-1101)

9-1102. Application for license. The city recorder is hereby authorized and empowered to issue appropriate permits to persons engaged in any of the activities governed by this chapter. Such permits shall be issued upon the written application in a form approved by the recorder, and verified by the person applying for such permit. Such application shall contain the name, business and residence address, and business and residence phone number of the applicant, and a description of the activities which the applicant intends to carry out, and may contain such additional information as the recorder shall require. (1975 Code, § 5-1102)

9-1103. Disposal of trees, brush, etc. All persons engaging in any of the activities governed by the provisions of this chapter, shall remove all trees, limbs, brush and all other waste or residue resulting from their activities, from the premises where such activities are carried out, and shall dispose of them in a proper and sanitary manner. (1975 Code, § 5-1103)

9-1104. Violations--penalty. Each and every violation of this chapter shall be punishable by a fine of not less than $10.00, nor more than $50.00. (1975 Code, § 5-1104)
CHAPTER 12

CABLE TELEVISION

SECTION

9-1201. To be furnished under franchise.
9-1202. Obstruction of streets, sidewalks, and rights-of-way, permits required.
9-1203. Placement and screening.

9-1201. **To be furnished under franchise.** Cable television service shall be furnished to the City of Red Bank and its inhabitants under franchise as the board of commissioners shall grant. The rights, powers, duties and obligations of the City of Red Bank 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.\(^1\)

9-1202. **Obstruction of streets, sidewalks, and rights-of-way, permits required.** Every cable and video service provider operating in the City of Red Bank, and any contractor or subcontractor providing services for a cable or video service provider, shall comply with all provisions of the Municipal Code of the City of Red Bank. No streets or sidewalks may be obstructed or impaired by such cable or video service providers or their contractors. Prior to any construction or installation activities by cable or video service providers or their contractors, plans must be submitted to the Red Bank Municipal Planning Commission and permits must be obtained. The city preserves its right to inspect and regulate such activities. In addition to such requirements, the following provisions specifically apply to construction and/or installation activities by cable or video service providers or their contractors. (as added by Ord. #09-946, Feb. 2009)

9-1203. **Placement and screening.** Cable and video service providers and their contractors and subcontractors shall be subject to and shall comply with supplementary provisions relating to the placement, screening and location of equipment, facilities and/or accessories, whether on public or private property. No facilities, equipment or accessories to be used for video services shall be installed without obtaining a permit from the city authorizing the location and plans for such installation. This provision shall not apply to installation of otherwise lawful and authorized poles or wires.

\(^1\)For complete details relating to the cable television franchise agreement see Ords. #165, #186, #201, #229, #253, #332, #463, #580, #623, and #09-946 in the office of the city recorder.
These provisions shall be and are hereby also adopted and incorporated into the Red Bank Subdivision Regulations and, by separate ordinance, as an amendment to the Red Bank Zoning Ordinance in both locations of the municipal code, in the specific sections deemed appropriate by the incorporator, or designated as new sections:

(a) Installation of cable and video service provider facilities and accessory uses. Every cable company and video service provider using the public rights-of-way and/or adjacent easements or private property to provide services shall comply with the regulations of this section regarding the placement of accessory facilities on public or private property. For purposes of this section "accessory facilities" (or, "facilities") shall mean such facilities including pedestals, boxes (exterior), vaults, cabinets, or other ground-mounted or below-ground facilities, including associated conduits, cables and/or lines, that directly serve the local area or property in which the facility is placed. Accessory facilities shall be permitted subject to the following regulations.

(b) Approval; design; location; application. The design, location, and nature of all accessory facilities on public or private property shall require the approval of the Red Bank Municipal Planning Commission ("planning commission"), which approval shall be considered in a nondiscriminatory manner, in conformance with this chapter and subject to reasonable permit conditions. Prior to any construction, excavation or other work on any accessory facility, the facility owner shall apply to the planning commission and submit detailed plans for the commission's review and approval. Any material changes or extensions to such facilities or the construction of any additional structures shall be subject to the requirements and approvals as set forth herein.

In considering individual or multiple location applications, the planning commission shall review the request and ensure the proposed facilities do not impair public safety, harm property values or significant sight-lines, or degrade the aesthetics of the adjoining properties or neighborhood, considering all reasonable alternatives. Unless otherwise prohibited, facilities subject to this section may be located in minimum setback areas provided that all other requirements are met. To the extent permitted by law, the time, method, manner and/or location of facilities to be installed in the public rights of way may be established or set by the City of Red Bank on a case-by-case basis, as needed to protect the rights of way or to ensure public safety. An inspection fee shall be required as established by the City of Red Bank to reimburse the city for the costs of review and inspection of such facilities.

(c) General regulations. The following general regulations apply to all accessory facilities:
(i) No facilities may be located so as to interfere, or be likely to interfere, with any public facilities or use of public property.

(ii) All such facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise.

(iii) Any damage to landscaping or vegetation on private or public property during installation or maintenance of facilities shall be promptly remedied by the facility owner. The facility owner shall replace all plantings damaged by the work with like plantings and shall replace all damaged grass areas with sod of the same type of grass as was damaged.

(iv) At least forty-eight (48) hours prior to any installation, replacement or expansion of any facility located on private property, the facility owner shall provide notice to the city, the property owner and all adjacent property owners. Notice shall include detailed description of the work to be done, the exact location of work and the time and duration when it will be undertaken.

(v) Facilities placed in any designated historic areas may be subject to additional requirements regarding the placement and appearance of facilities as may be necessary to reasonably avoid or reduce any negative impact of such placement.

(d) Residential zones. In residential zones (R-I thru R-4, PUD, RT-1, and RZ-1) and rights-of-way adjacent to such areas, accessory facilities less than three feet (3') in height and covering less than six (6) square feet in area may be installed above ground with the prior approval of the city. Except as otherwise may be authorized herein, any larger facility shall be installed underground or authorized to be installed above ground only by special use permit issued by the board of zoning appeals (Red Bank Zoning Ordinance, § 11-206, et seq.). All above ground facilities, where authorized, shall be placed in the rear yard wherever practical. If locating facilities in the rear yard is not practical, then such facilities may be installed in the side yard. Such facilities shall not be located in the front yard or within the public right-of-way unless specifically approved by the city upon a determination that all other alternative locations are not feasible.¹ (as added by Ord. #09-946, Feb. 2009)

¹Appendix E consisting of Exhibits A and B is located under the "Appendix" section of this municipal code.
CHAPTER 13

ADULT-ORIENTED ESTABLISHMENTS

SECTION

9-1301. Definitions.
9-1302. License required.
9-1303. Application for license.
9-1304. Standards for issuance of license.
9-1305. Permit required.
9-1306. Application for permit.
9-1307. Standards for issuance of permit.
9-1308. Fees.
9-1309. Display of license or permit.
9-1310. Renewal of license or permit.
9-1311. Revocation of license or permit.
9-1312. Hours of operation.
9-1313. Responsibilities of the operator.
9-1314. Prohibitions and unlawful sexual acts.
9-1315. Penalties and prosecution.
9-1316. Invalidity of part.
9-1317, et seq. Reserved.

9-1301. 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 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.

(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 any 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) "City commission" means the City Commission of the City of Red Bank, 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 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.

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. #97-753, Dec. 1997)

9-1302. 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 City of Red Bank without first obtaining a license to operate issued by the City of Red Bank.

(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 article must submit an application for a license within on hundred twenty (120) days of the passage of this chapter on third 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.

1These provisions were taken from Ord. #97-753 which passed third and final reading December 2, 1997.
(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. #97-753, Dec. 1997)

9-1303. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Red Bank Police Department and to the applicant.

(2) The application for a license shall be upon a form provided by the city manager. 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 (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 internet 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 City of Red Bank, 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 manager 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 Red Bank Police Department, the city manager shall notify the applicant that his application is conditionally 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 conclusion of such additional investigation, the city manager 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 city commission.

(4) Whenever an application is denied or held for further investigation, the city manager 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 city commission at which time the applicant may present evidence as to why his license should not be denied. The city commission 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 city commission 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 Hamilton 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 city manager. (as added by Ord. #97-753, Dec. 1997)

9-1304. 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 § 9-1303(2) shall be at least eighteen (18) years of age.
   (ii) No officer, director or stockholder required to be named under § 9-1303(2) 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 Red Bank Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the city manager no later than twenty (20) days after the date of the application. (as added by Ord. #97-753, Dec. 1997)

9-1305. 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 city manager. (as added by Ord. #97-753, Dec. 1997)

9-1306. Application for permit. (1) Any person desiring to secure a permit shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Red Bank Police Department and to the applicant.

(2) The application for a permit shall be upon a form provided by the city manager. 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 City of Red Bank, 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 Red Bank Police Department, the city manager 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 city manager 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 city manager 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 city commission 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 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 board. (as added by Ord. #97-753, Dec. 1997)

9-1307. 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 Red Bank Police Department has investigated the applicant’s qualifications to receive a permit. The results of that investigation shall be filed in writing with the city manager not later than twenty (20) days after the date of the application. (as added by Ord. #97-753, Dec. 1997)
9-1308. 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. #97-753, Dec. 1997)

9-1309. 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 Red Bank Police Department, or any person designated by the city commission. (as added by Ord. #97-753, Dec. 1997)

9-1310. 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 city manager. 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 city manager. A copy of the application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Red Bank Police Department and to the operator. The application for renewal shall be a form provided by the city manager and shall contain such information and data, given under oath or affirmation, as may be required by the city commission.

(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 Red Bank Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the city manager.

(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 city manager. 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 date by the city manager. A copy of the
application for renewal shall be distributed promptly by the city manager to the Red Bank Police Department and to the employee. The application for renewal shall be upon a form provided by the city manager and shall contain such information and data, given under oath or affirmation, as may be required by the city manager.

(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 Red Bank Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the city manager. (as added by Ord. #97-753, Dec. 1997)

9-1311. Revocation of license or permit. (1) The city manager 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 commission 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 commission 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 Chattanooga-Hamilton 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 city manager, 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 city commission, 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. #97-753, Dec. 1997)

9-1312. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. on weekdays and between the hours of 1:00 A.M. and 12:00 noon on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Red Bank Police Department, the Hamilton County Sheriff’s Department, or such other persons as the city commission may designate. (as added by Ord. #97-753, Dec. 1997)

9-1313. 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, birthdate, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city commission. 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 Red Bank 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 Red Bank 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 of 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 Red Bank City 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. #97-753, Dec. 1997)

9-1314. **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. #97-753, Dec. 1997)

9-1315. **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) 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. #97-753, Dec. 1997)

9-1316. **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. #97-753, Dec. 1997)

9-1317, **et seq. Reserved.**
CHAPTER 14

OUTDOOR STORAGE AND DISPLAY OF MERCHANDISE:
SIDEWALK SALES, GARAGE SALES AND YARD SALES

SECTION
9-1401. Definitions.
9-1402. Sales unlawful except in accordance with chapter.
9-1403. Exemptions.
9-1405. Violation declared nuisance; enforcement; penalties.

9-1401. Definitions. The following terms, wherever used or referred to in this chapter, shall have the following meanings unless a different meaning appears in the content.

(4) "Person" shall be defined as any individual, partnership, merchant, association, corporation, limited liability company, or entity of any kind or nature.

(5) "Sale" or "sales" shall mean the sale or any offer to sell and/or the exterior display or storage for the purpose of conducting or promoting the sale to the public, at wholesale or retail, or in any manner, of any goods, wares, and/or merchandise of any and all kinds or description on hand or in stock or on the premises.

(6) "Sidewalk sale" shall mean a special sales event or promotion conducted by a merchant in a commercial zone whereby merchandise may lawfully be displayed, as limited herein, upon the public sidewalks in a manner so as not to obstruct passage of pedestrians upon the public sidewalks of the city.

(7) "Yard sale" or "garage sale" shall mean a sale of miscellaneous merchandise, conducted in a manner as otherwise permitted by this chapter, on private residential premises by an individual or individual persons. (as added by Ord. #01-847, Oct. 2001)

9-1402. Sales unlawful except in accordance with chapter. It shall be unlawful for any "person" to conduct any sidewalk sale, yard sale, garage sale, tent sale or to allow any exterior sale or storage of goods, merchandise, products or inventory held, promoted or displayed except in accordance with the permissive provisions of this chapter. (as added by Ord. #01-847, Oct. 2001)

9-1403. Exemptions. The provisions of this chapter, related solely to the outdoor storage and/or display of merchandise, shall not apply to or affect the following persons, entities, business, circumstances, or activities:

(1) Persons acting pursuant to an order or process of a court of competent jurisdiction;
(2) Persons acting in accordance with their powers or duties as public officers, such as sheriffs, marshals or police officials;

(3) Duly licensed auctioneers, selling at public auction;

(4) Sellers of operating and operational trucks, automobiles, motorcycles, recreational vehicles, trailers, tractors, farm equipment, riding lawn mowers and the like, so long as such item and/or merchandise is not stored or displayed in such a way as to obstruct the views of motorists on or entering on or exiting from any public streets or right-of-way, nor stored or displayed any closer than five (5) feet from the public right-of-way and provided that no inoperable, partially dismantled and/or junked automobile, tractor, boat, farming equipment, etc. shall be stored, displayed or offered for sale in violation of any other provision of this chapter or of any other provision of the Red Bank City Code;

(5) Sellers of new building materials;

(6) Sellers of live shrubbery, flowers and landscaping plants. (as added by Ord. #01-847, Oct. 2001)

9-1404. Restrictions. There shall be no outdoor storage or display of goods, products, inventory or merchandise for sale in the City of Red Bank except as expressly permitted by this chapter.

(1) No person shall conduct any sidewalk sale, garage sale, yard sale or tent sale in the City of Red Bank except in accordance with the permissive provisions of this chapter.

(2) No persons shall conduct more than two (2) yard sales, garage sales or sidewalk sales, at any one business address, or as is applicable, at any residence address, or any one location during any calendar month. Each sale shall last no more than three (3) consecutive days. No permit shall be required unless the codes enforcement officer or person(s) designated by the city manager shall have reason to believe that a violation is occurring. Such permit shall be in written form, applied for in person and without cost or charge.

(3) There shall be no more than two (2) tent and/or other temporary structure sales at any one business address, or at any one location, during any calendar year, with each sale to be no more than forty-five (45) days duration, although two such sales may run consecutively. No such sale shall be conducted unless the person intending to conduct such sale shall by mail and/or by telephone and/or in person give prior notice to and register the date, time, duration and location with the codes enforcement officer. There shall be no tent or temporary structure sales on residential property.

(4) All goods, wares, or merchandise related to any "sidewalk sale" shall be removed from the public sidewalk(s) not later than 10:00 P.M. of each and every day of a permitted and registered sidewalk sale. However, the codes enforcement officer shall be authorized to issue a special permit for no more than one (1) special event sidewalk sale in any consecutive period of sixty (60)
consecutive calendar days whereby such hours of display may be extended to up to twenty-four (24) hours per day.

(5) Except for temporary display of merchandise during a permitted and registered sidewalk sale, and during lawful business hours when actually open for business, and excepting no more than six (6) items of merchandise for display and/or advertising purpose(s) which shall not obstruct or block the sidewalk and which shall leave at least eight feet (8') of unobstructed space on the sidewalk, there shall be no temporary or other storage of merchandise, goods, products, or inventory on the public sidewalks or on the public rights-of-way at any time or under any circumstance.

(6) During lawful business hours and when actually open for business, any person, business or entity which is otherwise lawfully operating in a commercial zone, as otherwise provided in the Red Bank Zoning Ordinance(s) may display and offer for sale otherwise lawful merchandise outside the building(s) located upon the premises so long as the same shall be displayed and/or offered for sale on the private property of such person or business operating thereon and not on the public right-of-way, and no person shall display or store such merchandise outside the building premises at any time when such business is not actually open for business to the public unless the same shall be enclosed in and by a sight obscuring fence together with evergreen landscaping, which fence and evergreen landscaping shall be at least eight feet (8') high and which fence and evergreen landscaping shall be located at least five feet (5') from the public right-of-way or, unless the same shall be stored and fully enclosed within a fence (whether or not sight obscuring) together with evergreen landscaping, which fence and evergreen landscaping shall be at least four feet (4') in height and which fence and landscaping shall be set back, at all points, at least twenty feet (20') from the public right-of-way and which fence and landscape display or storage area shall be entirely separate from the code compliant parking facility on said premises. (as added by Ord. #01-847, Oct. 2001, and amended by Ord. #14-1004, June 2014)

9-1405. Violation declared nuisance; enforcement; penalties. To conduct any sale herein defined without registering the same and/or in any manner not permitted by this chapter, or to violate any other provisions of this chapter with respect to the outdoor sale or storage of goods, wares, merchandise or inventory is hereby declared to be a misdemeanor and a public nuisance, and, for the purpose of the enforcement of this chapter, the city manager is hereby authorized to cause the city attorney to file a bill in a court of proper jurisdiction to enjoin such person(s) from continuing to conduct any such sale(s). Additionally, any person violating the provisions of this chapter shall be subject to a civil penalty up to and including $50.00 for each violation, with each day of violation constituting a separate offense. (as added by Ord. #01-847, Oct. 2001)
CHAPTER 15

MOBILE FOOD VEHICLES AND PUSHCARTS

SECTION

9-1501. Mobile food vehicles regulated; purpose.
9-1503. Permit and license required for yearly operation.
9-1504. Application for permit.
9-1506. Application, license and permit fees.
9-1507. General rules and regulations.
9-1508. Temporary curb spacing permit.
9-1509. Food service workers.
9-1510. Prohibition against the transfer of a permit and/or license.
9-1511. Denial, revocation, suspension or permit and/or business license.
9-1513. Requesting additional vendor locations.
9-1514. Mobile food service vehicle zone.
9-1515. Enforcement; violations.

9-1501. Mobile food vehicles regulated; purpose. The general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of Red Bank by requiring that new and existing mobile food vehicles and food pushcart vendors provide residents and customers with a level of cleanliness, quality and safety.

It is also the intent of these regulations to establish reasonable guidelines and restrictions for mobile food vehicles and pushcart in relationship to established restaurant businesses and encourage the safe and convenient use of the city's public right-of-way. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1502. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Applicant" means any person or business who applies for a license or a license renewal under the provisions of this business license code.

(2) "RBPD" means the Red Bank Police Department.

(3) "Business licenses" is the licenses required of any business to operate within the city by the license codes of the city.

(4) "Department" means the department designated by the (city commission or mayor).
(5) "Food service worker" means a person who works for or under the direction of, on behalf of, or as an agent of a food vehicle permittee and/or owner.

(6) "Food zone" is an area designated by the city manager that has been approved for the specific operation of mobile food vehicles and/or pushcarts within the public right-of-way.

(7) "License" is an approval that enables the holder to vend food items at authorized locations and times, for a specified period of time.

(8) "Licensee" means the holder of a mobile food vendor business license issued by the finance department.

(9) "Mobile food vehicle" means, except for pushcarts, a unit mounted on or pulled by a self-propelled vehicle where food for individual portion service is prepared, or dispensed; is self-contained with its own drinking water tank and waste water tank including prepackaged foods; is designed to be readily movable; and is moved daily to return to its commissary.

(10) "Mobile food zones" means the locations and areas of the City of Red Bank within which the operation of mobile food vehicles and push carts may be allowed subject to the provisions of this section/ordinance. See § 9-1514.

(11) "Operator" is the entity that is legally responsible for the operation of the mobile food vehicle such as the owner, the owner's agent, or other person; and possesses a valid permit to operate a mobile food vehicle.

(12) "Operating hours" is the designated time frame mobile food vehicles are authorized to operate within the city right-of-way.

(13) "Owner" is an individual or business entity who owns and/or operates the food vehicle used in business for the purpose of earning income.

(14) "Pedestrian" is a person who is walking or otherwise traveling in the public right-of-way.

(15) "DPW" means the Department of Public Works.

(16) "Permit" means a written authorization, or permission to engage in or participate in some regulated or otherwise controlled activity. Under the provisions of this code section, a "permit" is not equivalent to a "license", and vice-versa.

(17) "Permittee" is the entity, person, company or corporation which has been granted a permit by the City of Red Bank to operate one (1) or more mobile food vehicles upon the streets of the city.

(18) "Pushcart" means a non-self-propelled mobile food unit that is lightweight enough, designed, and intended to be moved by one (1) person. A pushcart can be used to prepare and serve only:

   (a) Non-potentially hazardous foods such as popcorn, lemonade, hot dogs or flavored ice; or
   (b) Foods pre-wrapped at the commissary and maintained at the required temperatures.

(19) "Restaurant" a brick and mortar establishment where meals are generally served and eaten on premises; prepares and serves food and drink to
customers in return for money, either paid before the meal, after the meal, or with a running tab.

(20) "Person" means any natural individual, firm, partnership, association, or corporation. Whenever the word "person" is used in any section in this article prescribing a penalty or fine as applied to a partnership or association, the word shall include the partners or members thereof; such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of such section.

(21) "Vending" is the business of selling or causing to be sold any of the following items: food product, produce, prepared foods and beverages, prepackaged foods and non-alcoholic beverages from a vehicle. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1503. Permit and license required for yearly operation. (1) All mobile food vehicles and pushcarts must submit an application for a permit yearly to the public works department. The application will then be forwarded to the city manager for review.

The application must receive approval of the city manager or his/her designee prior to the issuance of a permit.

(2) Although a permit allows for the operation of the mobile food vehicle within the city limits, the permittee's activity must occur only in an area that is zoned commercial and only at such assigned location(s) as are specifically allowed as provided in the permit; and

(3) No location within the city shall be approved that is within two hundred fifty feet (250') of any presently, or at the time of application, existing restaurant during hours of operation of the restaurant.

(4) Applicant shall notify the public works department within fifteen (15) days of any changes to application information.

(5) The city manager shall not approve a location where in the city manager's sole reasonable discretion a mobile food vehicle and/or pushcart would potentially obstruct a public right-of-way, impair the movement of pedestrians or vehicles, in the opinion of the city manager, or pose a hazard to public safety, or pose any impediment to safe movement of vehicular traffic. In the event the city manager shall approve a location which later results in any obstruction of traffic or impairment of the movement of pedestrians, the city manager may, in his or her discretion summarily and without right of review, revoke the permit as to any such location and assign another approved location to the permit holder.

(6) The city manager shall not approve any location which is adjacent to a handicap loading zone.

(7) The grant of a permit hereunder shall not be deemed to authorize any mobile food vehicles and/or pushcart licensee/permittee to conduct business or utilize the assigned/permitted space unless the permittee also obtains a
business license from the city. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1504. Application for permit. (1) A single permit application shall be accepted and deemed complete on a first-come, first-served basis. Each application shall indicate on its face, in addition to other requirements as may be determined, that the following materials must be submitted:

(a) Each owner of a mobile food vehicle and/or pushcart shall be required to provide a valid copy of all necessary licenses, permits or other written proof of compliance with the regulations of the Hamilton County Health Department for each mobile food vehicle and/or pushcart.

(b) The applicant's full name, signature, address and whether the applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses.

(i) The applicant must list the names of all food service workers that will operate the mobile food vehicle(s).

(ii) A photograph of the permittee and/or food service worker applicant, e.g. driver's license, passport or similar.

(iii) Each owner must attest that they have not knowingly employed, hired for employment, or continued to employ an unauthorized alien. Owner must attest that he/she has e-verified each of the named employee's eligibility for employment.

(2) The applicant must specify their desire to, and commit only to, operate in designated and permitted commercial zones within the public right-of-way of the city or upon private property.

(3) A photograph or accurate description of the mobile food vehicle and/or pushcart, including the following data: The make, model and type of body; the number of cylinders; the vehicle identification number or any other identifying number as may be required by the city manager. (If this information is not known at the time of permit application, this requirement can be satisfied as a condition of obtaining a final effective permit.)

(4) A statement as to whether the application is for a new permit, renewal of an existing permit, a change in hours of operation, or the addition of a food zone location(s).

(5) A statement that the applicant or any of its food service workers has not been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business.

(6) A statement that the applicant or any of its food service workers has not been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten (10) years.

(7) A statement as to whether or not the applicant or any of its principals suffers from a legal disability or capacity under state or federal laws.

(8) A signed statement that the applicant shall hold harmless the city and its officers and employees, and shall indemnify the city, its officers and
employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the city from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than three hundred thousand dollars ($300,000.00) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the City of Red Bank. A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the office of the city manager.

(9) A statement that the permittee shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be the direct result of any activity of the permit holder.

(10) A statement that no sales or consumption or dispensing of alcoholic beverages, wine, or beer shall be permitted under any circumstance or at any time unless the food truck owner has received a separate permit/license therefore from the City of Red Bank.

(11) Such other additional information required by law, rule, ordinance, or that any department of the city, city manager, city commission, or information reasonably deemed appropriate to assist the city in determining whether the permit should be granted. The applicant shall be provided reasonable time to supplement the application.

(12) A statement that the applicant/permittee has not had a similar food truck or pushcart license of permit revoked or suspended in any jurisdiction within the preceding five (5) years. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1505. Business license purchase. Every person required to purchase a business license under this ordinance shall:

Purchase a city business license (which is non-transferrable to any third party) for each mobile food vehicle and/or pushcart on which it does business within the city, except as otherwise provided by the city. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1506. Application, license and permit fees. (1) Upon the filing of a completed application, the non-refundable application fee for all applicants seeking a mobile food vehicle or pushcart permit shall be twenty-five dollars ($25.00). This application fee shall be submitted with the application and shall apply to the cost of the permit only if approved.
(2) Upon approval of an application for an operator's permit, the annual business license fee shall be twenty-five dollars ($25.00) for the owner/operator of the mobile food vehicle or pushcart.

(3) Any applicant that wishes to operate multiple units within the city shall pay an additional yearly license fee of twenty-five dollars ($25.00) per additional unit.

(4) The annual fees set forth in this section shall be prorated starting with the date the permit is issued to December 31 of the first year of operation as needed.

(5) Any duplicate permit may be issued upon payment of a fee of ten dollars ($10.00) should a permit be lost or destroyed.

(6) Any renewal permit must be applied for not later than ten (10) working days following the expiration date of an existing operator's permit, and for any such permit applied for after such expiration date there shall be a late fee of fifty dollars ($50.00) in addition to the annual fees stated above.

(7) Each such applicant shall pay to the director of finance, for the use of the city, a license fee for the privilege of engaging in such business in the amount specified in the then current license code and shall each year thereafter pay to the director of finance such amount as is specified for such business in the then current license code so long as his license is in effect. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1507. General rules and regulations. (1) No person or business entity, including religious or charitable organization, shall operate a mobile food vehicle and/or pushcart upon the public right-of-way or upon any private property within the city without a permit issued by the City of Red Bank.

(2) Hours of operation within the public right-of-way and/or upon private properties shall be limited to the hours between 6:00 A.M. to 11:00 P.M., Monday through Sunday within the city. It shall be unlawful to leave any approved mobile food vehicle unattended on a public right-of-way, nor remain on a public right-of-way outside of these allowed hours of operation. The city may require additional restrictions to abate nuisances.

(3) All mobile food vehicle and/or pushcart vendors operating within the public right-of-way of the city shall adhere to the designated time and day requirements and shall be allotted sixty (60) minutes set-up and sixty (60) minutes breakdown time before and after stated operating hours.

(4) No mobile food vehicle or pushcart operation vending shall occur within two hundred fifty feet (250') of any restaurant during hours of operation. No mobile food vehicle or pushcart shall be permitted to operate within one (1) block of another mobile food vehicle or pushcart without a special exceptions permit from the city manager.

The city manager may, however, allow multiple food trucks/pushcarts if it is determined that additional food vehicles or pushcarts can be accommodated without negatively impacting existing businesses on the block face. For
example, where there are few or no occupied buildings on the block face. Special exceptions may be granted or denied for festivals, fairs, or special events for time periods not to exceed seventy-two (72) hours by determination of the city manager based on all circumstances then and there existing.

Increasing the size of a food vehicle/pushcart zone does not prevent the city from exercising the inherent authority to regulate uses of the public right-of-way and/or vending from mobile food vehicles located on private property and reduce the size of the food vehicle/pushcart zone at a later date. No licensed permit holder shall have, obtain, or accrue any vested right of or with respect to any particular location(s) under any circumstance(s).

(5) Mobile food vehicle and/or pushcart vendor shall not operate within five hundred feet (500') of any fair, stadium, carnival, circus, festival, special event, civic event, or other like event that is licensed or sanctioned by the city, unless they are authorized participants in such event, except that the provisions shall not be interpreted to disallow continued operation for any person then holding a previously issued and valid permit for operation within any such area.

(6) It shall be unlawful for any vendor to operate a mobile food vehicle and/or pushcart in or within two hundred and fifty feet (250') of any public or private school located within the city or any public park(s) without first obtaining specific written authorization from the city manager.

(7) The permit may contain additional limitations on hours and days that the city determines are appropriate, including limitations to prevent conflict with special events.

(8) No mobile food vehicle and/or pushcart shall use or maintain any sound amplifying equipment, lights, pulsating or flashing lights, or noisemakers, such as bells, horns, or whistles or similar devices to attract customers.

A mobile food vehicle and/or pushcart may use battery operated lights with appropriate protective shields for the purpose of illuminating merchandise.

(9) With the exception of trash bin receptacles, no mobile food vehicle shall use external signage, seating, or place other equipment not contained within the vehicle on the public sidewalks or right-of-way or upon any adjacent private property.

(10) Other than as permitted within the city, no mobile food vehicle and/or pushcart shall have any exclusive and/or perpetual or length-of-time oriented right(s) to any location(s) upon the streets, alleys, or public grounds of the city.

(11) No mobile food vehicle and/or pushcart operating within the city designated locations shall be of a size as to interfere in any way with the city or public's use of any public ways, streets or sidewalks.

(12) No mobile food vehicle and/or pushcart shall vend in any congested area where the operation will impede pedestrian or vehicle traffic; including customer queues, accessory units, or signage.
(13) No mobile food vehicle and/or pushcart shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic. Drive through sales of merchandise are not permitted under any circumstances or at any time.

(14) Permittee shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of a public right-of-way or remove the mobile food vehicle or pushcart entirely from the public right-of-way or adjacent property if necessary to avoid such congestion or obstruction.

(15) The mobile food vehicle and/or pushcart must prominently display the name and address of the owner and the permit number.

(16) Any power required for the mobile food vehicle and/or pushcart located on a public way shall be self-contained and shall not draw its power from the public right of way. No power cable or equipment shall be extended at grade or overhead on, across any public street, alley or sidewalk.

(17) Permittee and/or licensee shall contain all refuse, trash, and litter within the mobile food vehicle or a small moveable trash can maintained by the permittee and/or licensee, and located adjacent to the mobile food vehicle and/or pushcart in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The owner/operator of the mobile food vehicle and/or pushcart shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container, or in any private container without proper permission.

(18) A mobile food vehicle (including pushcarts) must allow for a pedestrian visual corridor at least 6 feet wide with a four foot (4') wide pedestrian walkway.
   (a) Mobile food vehicles (including pushcarts) must always be located on a paved or concrete surface. The location must be on the street side of the sidewalk and the pushcart must maintain an eighteen inch (18") setback from the curb.
   (b) Pedestrian walkways of no less than four feet (4') must be maintained around the mobile food vehicle and/or pushcart.

(19) The proposed mobile food vehicle and/or pushcart vending activity shall not violate the Americans with Disabilities Act.

(20) If an existing mobile food zone conflicts with the requirements set forth in this ordinance, the city manager shall make a determination if it will be feasible to issue a new permit for a different location and provide a reasonable amount of time for the vendor to move to the new location.

(21) Mobile food vending shall only occur from the side of a food vehicle that is parked abutting and parallel to the curb.

(22) No mobile food vehicle shall provide or offer drive-through service of any kind.

(23) The decibels on any generator(s) or other equipment or amenities of any mobile food vehicle used may not exceed "60dBA". The operator must
provide the manufacturer's specs on decibels generated by any particular generator or other equipment. The department of public works will make the final determination if power generators or other equipment used by mobile food vehicle constitute a noise violation.

(24) The use of the permitted operating location for mobile food vehicle and/or pushcart vending must be compatible with the public interest in use of the public right-of-way. In making such determination, the city manager shall consider the width of the public way, parking issues and traffic congestion, the weight that can be supported by the paving or street surface at the proposed location, the proximity and location of existing street furniture, including, but not limited to, utility poles, parking meters, benches, street trees, news racks, as well as the presence of truck loading zones or other businesses or approved mobile food vehicles to determine whether the requested location would result in pedestrian or street congestion.

(25) Any new business that opens or moves near an existing mobile food vehicle or pushcart zone shall be deemed to have accepted the proximity of the existing mobile food vehicle and/or pushcart in operation for the duration of the mobile food vehicle location permit. The city shall maintain the inherent authority to regulate uses of the public right-of-way and reduce the size and/or location of the food vehicle/pushcart zone at a later date. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1508. Temporary curb spacing permit. (1) A temporary curb space vending permit authorizes vending from a curb space within the public right-of-way that is not designated as a mobile food vehicle zone. The permit is effective for no more than one (1) day during a calendar year. The temporary curb space vending permit may be issued under the following requirements:
   (a) The permittee shall reserve the curb space with the city manager.
   (b) The temporary curb space vending permit shall only be issued for an event located on private property abutting the curb space or an event located in an adjoining public place.
   (c) The vending shall only occur from the side of a food vehicle that is parked abutting and parallel to the curb.
(2) The permittee shall obtain and maintain in effect all required permits and business licenses and display the food vehicle zone or temporary curb space vending permit at the vending site in a manner approved by the city manager.
(3) Temporary curb space permit vending sites shall not be located in driveways or within one (1) block of a food establishment entrance or exit during its hours of operation.
(4) The city manager, as deemed appropriate, approve or deny the issuance of a temporary curb space vending permit based on the:
   (a) Hours of operation and dates of use;
(b) To ensure access to the use complies with the Americans with Disabilities Act;
(c) Impacts associated with the vending activity from: lighting, noise, emissions to the air, the placement of signage, or equipment such as generators;
(d) Impacts to the abutting business displays, business signage, or intake vents from the proposed vending activity; and
(e) Pedestrian circulation, traffic management, or any other public use purpose.
(5) If the proposed temporary curb space or food vehicle zone vending will occur within two hundred feet (200') of a park, the city manager will decide whether the vending site should be approved or denied based on the following considerations:
(a) Public safety or access within the park;
(b) Conflicts with existing businesses and concessionaires, permitted events, or other special activities occurring in the park; or
(c) The need to encourage park activities. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1509. **Food service workers.** The owner of a mobile food vehicle and/or pushcart shall:
(1) Allow only food service workers and persons authorized by the Hamilton County Health Department to be present or operate in the mobile food vehicle and or pushcart; and
(2) Ensure that all food service workers in the mobile food vehicle or operating the pushcart have current workers permits. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1510. **Prohibition against the transfer of a permit and/or license.** (1) No permit or license is transferable without approval of the city manager.
(2) No person holding a permit and/or license for a mobile food vehicle shall sell, lend, lease or in any manner assign transfer a mobile food vehicle permit and/or license. Any attempted assignment or transfer of any kind without prior notice to and consent by the City of Red Bank shall be absolutely null and void and shall automatically result in immediate administrative revocation of the existing license.
(3) A permit and/or license holder may transfer a permit and/or license as part of the sale of a majority of the stock in a corporation holding such permit and/or license, as part of the sale of a majority of the membership interests of a limited liability company holding such permit and/or license, or as part of the sale of a business or substantially all of its assets; provided that there shall be no allocated or actual value for the transfer of the permit and/or license.
(a) Prior to any such transfer, the transferor shall notify the city manager in writing and the transferee shall submit a mobile food vehicle permit application for approval to the city manager.

(b) Any such transfer shall be subject to the terms and conditions of the original permit.

(4) Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit. Whoever violates this provision, including both the transferor and transferee, shall be subject to a fine of three hundred dollars ($300.00). The unauthorized transfer or attempt to transfer of each permit shall constitute a separate violation. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1511. Denial, revocation, suspension or permit and/or business license. An application or approved permit and/or business license may be denied, revoked, suspended, or not renewed for any of the following reasons:

(1) The permittee and/or licensee or any of its principals fails to satisfy any qualification or requirement imposed by this chapter, or other local, state or federal laws or regulations that pertain to the particular license; or

(2) The permittee and/or licensee or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card when such applicant or principal knew or reasonably should have known that one was required; or

(3) The permittee and/or licensee or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal to conduct such a business; or

(4) The permittee and/or licensee or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business; or

(5) The permittee and/or licensee or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten (10) years; or

(6) The motor food vehicle on which the business is proposed to be conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed; or

(7) The licensee or any of its principals is in default on any payments owed to the city; or

(8) The application contains material omissions or false, fraudulent, or deceptive statements; or

(9) The motor food vehicle is operated in such a manner as constituting a public nuisance per the Red Bank City Code or state statutes; or
(10) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this chapter pertaining to food, fire prevention, public health or safety.

(11) The licensee or his agents or employees interfere with an inspection of the food establishment by a Hamilton County Health Department employee; or

(12) There are repeated or serious violations of the applicable portions of this article; or

(13) There are repeated or serious violations of federal or state food laws or laws regulating food establishments as defined in this article; or

(14) The Hamilton County Health Department denies, revokes or suspends the license of the mobile food vehicle; or

(15) There is a violation of any section of this chapter.

The provisions of this section are not exclusive. This section shall not preclude the enforcement of any other provisions of this chapter or state and federal laws and regulations. The Hamilton County Health Department may impose additional requirements related to the operation of a mobile food vehicle or food push cart. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1512. Actions of city manager final. The actions of the city manager in denying, revoking or suspending any permit or license and/or in imposing a civil penalty as provided herein shall be final. Upon any denial, revocation or suspension of a mobile food vehicle permit and/or business license by the city manager, the applicant or permittee and/or licensee may appeal the actions of the city manager only to the Chancery Court of Hamilton County, Tennessee via statutory writ of certiorari as provided in the Tennessee Code Annotated.

(1) Prior to revocation, written notice shall be given to the permittee and/or licensee or person in charge. The notice shall set forth:

(a) The grounds upon which the city will seek denial, revocation or suspension of the permit and/or license;

(b) The specific violations of this article or of federal or state law upon which the city will rely in seeking denial, revocation or suspension of the permit and/or license;

(c) That a hearing will be held before the Red Bank city administrative hearing officer;

(d) The date, time and place of the hearing; and

(e) That the permittee and/or licensee may appear in person and/or be represented by counsel and may present testimony.

(2) The hearing shall be held in accordance with this section. If the permit and/or license holder fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that an act or acts have been committed or omitted that constitutes grounds for denial, revocation or suspension of a permit and/or
license. The burden of proof shall be upon the appellant, and the standard of proof shall be abuse of discretion, or arbitrary and capricious decision, inherent credible evidence.

(3) After completion of the hearing, the city administrative hearing officer shall make written findings as to whether or not grounds exist for denial, revocation or suspension of the permit and/or license. If the city administrative hearing officer finds that grounds do exist for denial, revocation or suspension, it shall deny, revoke or suspend the permit and/or license temporarily for up to one hundred eighty (180) days or permanently.

(4) A copy of the written findings shall be sent by certified mail, return receipt requested, to the permittee and/or licensee. If the address of the licensee is unknown, or if the findings are returned undelivered, the findings shall be served on the person in charge of the mobile food vehicle.

(5) If the city administrative hearing officer determines that the appeal is not sustained and upholds the revocation or suspension the permit and/or license, written notice of the revocation shall be served on the permittee and/or licensee or the person in charge with a copy of the findings.

(6) Upon service of a written notice that the permit and/or license have been revoked as provided herein, all food operations shall cease immediately.

(7) Whenever a permit and/or license are revoked, the Hamilton County Health Department shall be notified.

(8) In the event a permit and/or license are revoked, the city shall not be liable to the permittee and/or licensee for any refund of any part of the permit and/or license fee.

Reinstatement of a permittee and/or licensee that has been revoked shall require application and payment of a permit and/or license fee as if it were an initial application.

No new permit and/or license application shall be considered for an establishment or mobile food vehicle where the permit and/or license have been revoked until the expiration of the revocation period. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1513. Requesting additional vendor locations. (1) The use of the permitted operating location for mobile food vehicles or pushcart vending must be compatible with the public interest in use of the public right-of-way.

(2) A permittee may submit a request for use of the public right-of-way in other locations not designated by the city manager. Each submitted request will require a non-refundable location inspection fee of one hundred dollars. ($100.00) If the location is approved, the fee shall apply to the cost of the permit for the new location. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)
**9-1514. Mobile food service vehicle zone.** (1) The following are designated areas of the City of Red Bank where mobile food service vehicles and pushcarts may be lawfully operated pursuant to the provisions of the chapter:

(a) Those areas defined and limited to all commercial zones as defined in the Red Bank Zoning Ordinance, exclusive of those areas otherwise specified and elsewhere excluded or restricted in this chapter.

(b) At his/her sole discretion, the city manager may limit the number of designated food zones within the city, to address the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of Red Bank.

(c) No location within the city shall be approved that is within two hundred fifty feet (250') of any presently, or at the time of application, existing restaurant during hours of operation of the restaurant.

(d) Mobile food vehicle and/or push cart vendor shall not operate within five hundred feet (500') of any fair, stadium, carnival, circus, festival, special event, civic event, or other like event that is licensed or sanctioned by the city, unless they are authorized participants in such event, except that the provisions shall not be interpreted to disallow continued operation for any person then holding a previously issued and valid permit for operation within any such area.

(e) It shall be unlawful for any vendor to operate a mobile food vehicle and/or push cart in or within two hundred and fifty feet (250') of any public or private school located within the city or any public park(s) without first obtaining specific written authorization from the city manager.

(2) Although the permit allows for the operation of the mobile food vehicle within the city limits, the permittee's activity must occur only in an area that is zoned commercial and only at such assigned location(s) as are specifically allowed as provided in the permit.

(3) In all other zones, and areas and locations the operation of mobile food service vehicles and pushcarts shall be unlawful and prohibited. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

**9-1515. Enforcement, violations.** Any person vending without a duly issued permit, license and personal identification or found in violation of any of the regulatory provisions of this chapter shall be guilty of a violation of this ordinance.

(1) Any person found guilty of a violation of this chapter shall, in addition to the possible revocation or suspension of all applicable operating permit(s) and/or license(s) be subject to the imposition of civil penalties as hereinafter provided.
(a) Enforcement. The provisions of this section or any rules and regulations may be enforced separately or jointly by the Red Bank Police Department and/or the codes enforcement officer.

(b) Civil penalty for violation. Any permit holder operating a mobile food vehicle or service in violation of any provision of this section or any rules and regulations promulgated by the city manager may be subject up to a civil penalty of up to five hundred ($500.00) dollars per day. Each day of violation shall constitute a separate and distinct offense.

(i) The RBPD or the codes enforcement officer may suspend a permit and/or license for no more than three (3) days without a notice or hearing, if there is a probability of serious or repetitive violation of public safety, health or order.

(c) Revocation, suspension, modification. Once a permit and/or license have been issued it may be revoked, suspended, modified, or not renewed by the city manager for failure to comply with the provisions of this section or any rules and regulations promulgated by the city manager.

(i) With the exception of subsection (1)(b)(i) above, no permit and/or license shall be revoked, suspended, modified, or not renewed without a hearing before the city administrative hearings officer, prior to which hearing the city shall give reasonable notice of the time and place of the hearing and the specific grounds of the proposed action. The decision resulting therefrom shall be final and subject only to judicial review via certiorari.

(d) Any permit and/or license holder found in violation of this section or any rules and regulations may be issued a ticket for violation and the mobile food vehicle may be impounded.

(e) Any mobile food vehicle being operated without a valid mobile food vehicle permit and/or license issued by the city manager shall be deemed a public safety hazard and may be ticketed and impounded.

(f) No mobile food vehicle shall be parked on the street overnight, or left unattended and unsecured at any time. Any mobile food vehicle which is found to be unattended shall be considered abandoned and a public safety hazard and may be ticketed and impounded.

(g) A mobile food vehicle operating within the city at an unauthorized location or beyond the hours for which the operation has been permitted shall be deemed operating without a permit and/or license in violation of this section and may be subject to enforcement.

(2) Nothing contained herein is intended or shall be construed to supercede any misdemeanor or other penalties otherwise applicable in the event any permittee or employee or of any vendor or permittee shall violate any laws
of the State of Tennessee, other ordinances of the City of Red Bank and/or rules of the Hamilton County Health Department. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1516.—9-1517. **Deleted.** (as deleted by Ord. #18-1122, June 2018)
CHAPTER 16

SHORT-TERM RENTAL UNITS

SECTION
9-1601. Short-term residential rental units.
9-1602. Additional definitions.
9-1603. Certificate required.
9-1605. Certificate application; action on certificate application; certificate approval or appeals to city commission.
9-1606. Permit approval; transferability; conditions; renewal and revocation.
9-1607. Short-term rental unit annual fee.
9-1608. Short-term rental agent.
9-1609. Failure to obtain permit; penalties.
9-1610. Invalidity of part; private agreements and covenants.

9-1601. Short-term residential rental units. Short-term residential rental units is defined as follows:
(1) "Short-term rental unit" or "unit": "Short-term rental unit" or "unit" means a residential dwelling unit that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in Tennessee Code Annotated, § 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in Tennessee Code Annotated, § 68-14-502.
(2) Per the provisions of the zoning ordinance, short-term residential rental units are, subject to conditions, certification and licensure hereinafter imposed, permitted only in the zoning districts specified in the zoning ordinance, and are "prohibited uses" in all zoning districts in which not expressly permitted except that certain properties that were used as a short-term rental unit prior to the enactment of this ordinance: i.e. property that began being held out to the public for use as a short-term rental unit within the City of Red Bank and as to which the owner/manager thereof remitted taxes due on renting the unit pursuant to the provisions of Tennessee Code Annotated, § 67-6-501, et seq. for filing periods that cover at least six (6) months within the twelve (12) month period immediately preceding the effective date of this ordinance, i.e. January 17, 2018, such short-term rental units pre-existing (as defined herein) the effective date of this ordinance are referred to as "grandfathered short-term rental units."
(3) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this ordinance may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)
9-1602. **Additional definitions.** (1) "Code compliance verification form." A document, on a form prepared by the office of the city manager, executed by a short-term rental unit owner certifying that the short-form residential rental unit complies with applicable zoning, housing, building, health and life safety code provisions. No person shall allow occupancy or possession of any short-term residential rental unit if the premises are in violation of any applicable laws including, but not limited to, zoning, building, housing, health or life safety code provisions. No person shall be able to possess more than two (2) short-term residential rental certificates for non-owner occupied premises in a multi-family dwelling.

(2) "Short-term residential rental agent." A natural person designated to be responsible for daily operations by the owner of a short-term residential rental or a short-term residential rental certificate application. Such person shall be available for and responsive to contact at all times and someone who is customarily present at a location with Hamilton County, Tennessee, for purposes of transacting the short-term residential rental business. The short-term residential rental agent must meet all other requirements set forth by state law.

(3) "Short-term residential rental occupants." Guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a short-term residential rental dwelling unit for lodging for a period of time not to exceed thirty (30) consecutive days, but not in any event to be from any period of time less than overnight. (as added by Ord. #18-1108, July 2018)

9-1603. **Certificate required.** No person or entity shall operate a short-term rental unit, including without limitation a grandfathered short-term rental unit, unless a short-term rental permit has been first obtained from the office of the city manager. To obtain a short-term rental permit, an otherwise eligible applicant must submit an application in compliance with the provisions of this chapter of the city code on a form provided by the city. If approved, a legible copy of the short-term rental permit shall be posted within the unit and shall include all of the following information:

1. The name, address, telephone number and email address of the owner of the short-term rental unit and the short-term rental agent, if applicable;
2. The business license number;
3. Any applicable hotel-motel tax certifications and or numbers as are applicable pursuant to Tennessee Code Annotated, § 67-4-1401 et seq.;
4. The maximum occupancy of the unit;
5. The maximum number of vehicles that may be parked at the unit; and
6. The short-term rental permit number.
All short-term rental units must be properly maintained and regularly inspected by the owner to ensure continued compliance with applicable zoning, housing, building, health and life safety code provisions.

The decision of the Office of the City Manager ("OCM") as to whether to issue, deny or revoke any permit shall be final, reviewable only by application for writ of certiorari to the Chancery Court of Hamilton County, Tennessee as provided in the Tennessee Code Annotated. (as added by Ord. #18-1108, July 2018)

9-1604. **Minimum standards for short-term rental units.**

(1) Short-term rental unit shall meet the following minimum standards:

(a) A short-term rental unit may include a primary dwelling unit and/or a secondary dwelling unit, but cannot include uninhabitable structures such as garages, barns or sheds.

(b) A short-term rental unit must have functioning smoke detectors as determined by the fire marshal and other life safety equipment as required by generally applicable local, state and federal law.

(c) A short-term rental unit must meet all applicable laws related to zoning, housing, building, health, electrical, gas, plumbing and life safety.

(d) No on-site signage shall be permitted except for those short-term rental units that are located on tracts of at least five (5) acres in area and which unit(s) have a dwelling unit that is not readily visible from the public right of way, which can have directional signs placed on the parcel that shall be at least fifty feet (50') from the public right of way, the provisions of the Red Bank sign ordinance shall otherwise govern the topic of "signs" off-site signage.

(e) There shall be no more than five (5) sleeping rooms made available for rental.

(f) Maximum occupancy: the maximum occupancy shall be determined by the total of

(i) Two (2) persons per bedroom up to one hundred forty (140) square feet.

(ii) For bedrooms over one hundred forty (140) square feet the occupant load will be determined by the area of the room divided by seventy (70) square feet.

(iii) The occupancy maximum shall be conspicuously posted within the short-term residential rental unit.

(g) The short-term rental unit owner shall not receive any compensation or remuneration to permit occupancy and shall not permit occupancy of a short-term rental property for any agreed or contracted period of less than twenty-four (24) hours.
(h) The short-term rental permit holder shall be responsible for collecting and remitting all applicable hotel and motel and sales taxes and any other taxes required by state law and/or by the city code of the City of Red Bank.

(i) Adequate on-site parking shall be provided, as determined by the city after considering proposed/maximum permitted number of guests, frequency of operations, and availability of on-street parking (if any). As a general rule, parking shall not be allowed on any vegetated area of the premises on which the short-term residential rental is located.

(j) All occupants shall abide by all generally applicable codes, ordinances and regulations, including without limitation, applicable noise restrictions and all applicable waste management provisions of the city code of the City of Red Bank.

(k) The name and telephone number of the owner of the short-term rental unit or the short-term rental agent shall be conspicuously posted within the short-term rental unit.

(l) Short-term rental units shall only be located within zoning district(s) which expressly permit such usages according to the Red Bank Zoning Ordinance.

(2) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1605. Certificate application; action on certificate application; certificate approval or appeals to city commission. (1) Certificate applications. Applicants for a short-term rental units permit shall submit an application to the office of the city manager. The application shall be furnished under oath on a form specified by the city. This provision shall apply whether the application is for a short-term rental unit or a "grandfathered short-term rental unit" together with documentary evidence which supports classifying to (proposed) short-term rental unit as a "grandfathered short-term rental unit." Such application shall include:

(a) The name, address, telephone number and email address of the owner of the short-term rental unit and the short-term rental agent, if applicable;

(b) Documentation that applicant is the owner or the short-term rental agent;

(c) The business license number;

(d) Certification and/or registration number relating to the hotel-motel occupancy tax authorized by Tennessee Code Annotated, § 67-4-1401 et seq.;
(e) A site plan, drawn to scale, indicating the subject property, the building(s) on the site intended for short-term rental unit, proposed parking and guest access;

(f) A narrative with the following:
   (i) A description of the area available for short-term rental (i.e. the entire property and house, a guest cottage, a portion of the house, etc.);
   (ii) A description of the number of bedrooms proposed for rental, which shall not be more than five (5) bedrooms under any circumstance;
   (iii) The maximum number of guests to be accommodated at one (1) time;
   (iv) The days of operation (all year, just holidays, weekend/weeknights, etc.);
   (v) How trash will be handled, and the method of informing occupants about method of disposal of trash; and

(g) A copy of the code verification form,

(h) Proof of insurance on the dwelling unit.

(i) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units."

(2) Application fee. (a) The permit application fee for owner-occupied short-term rental units shall be seventy-five dollars ($75.00).

(b) The permit application fee for all other non-owner-occupied short-term rental units shall be one hundred twenty-five dollars ($125.00).

(3) Application review. (a) Upon application for a short-term residential rental unit permit, the Office of the City Manager ("OCM") shall review the application and provide comment where necessary and, if necessary, request additional information. Letters shall be, within five (5) business days, mailed to any property owner (as shown by the records of the Hamilton County Tax Assessor) ("adjacent property owner") who owns land within three hundred feet (300') of the subject property. Adjacent property owners shall have thirty (30) days from the date of the letter to respond, in writing, with any concerns or objections about the application.

(b) The OCM shall also by mail or email submit a copy of the application for any short-term rental unit permit to individual members of the city commission.

(c) The OCM shall notify the fire marshal and the building inspector to ensure compliance with state and local laws.

(d) A sign furnished by the OCM or designee shall be prominently posted by the applicant on the site of the proposed
short-term rental unit that is the subject of the application of the short-term rental unit. The sign shall be displayed for at least fifteen (15) consecutive days between the date of application and thirty (30) days thereafter.

The sign shall meet the following requirements:

(i) Sign(s) shall be posted at the right-of-way of primary street or road on which the property fronts, in the main entrance area in case of condominium, apartment, PUD or townhouse buildings, and additional areas if required by the OCM.

(ii) Sign may be mounted on flat hard surface to prevent curling or bending of sign.

(iii) Sign may be nailed or tied to a tree or mounted on stakes and shall be visually free from obstruction to said primary road.

(iv) Signs improperly displayed may be ruled as a violation to the short-term residential rental application procedure and may result in deferral of any action by OCM.

(v) The applicant is responsible for replacing any sign which is damaged or lost.

(vi) The applicant is responsible for removing the sign after the final governmental action.

(vii) Failure of the applicant to remove the sign within thirty (30) days of either being granted or denied the short-term rental unit permit shall be subject to a daily administrative penalty not to exceed fifty dollars ($50.00) for each day of violation of these provisions.

(e) If the application meets all of the requirements set forth in this chapter, the OCM shall so advise the city commission and shall issue, to the applicant, a short-term rental unit permit within thirty (30) days of receipt of the application.

(f) If objections or appeals are made to the issuance of the short-term residential rental certificate, the OCM shall note and hold a hearing, upon notice to the applicant and the objecting parties, in a manner that OCM prescribes and shall determine whether to grant or deny the short-term rental unit permit based upon the minimum standards for review as set forth herein, and as relates to any generally applicable health, safety, and/or building codes with respect to the short-term rental unit. Such hearing shall take place not later than forty-five (45) days after the application has been submitted to the OCM. The decision of the OCM as to whether to issue, deny or revoke any permit shall be final, reviewable only by application for writ of certiorari to the Chancery Court of Hamilton County, Tennessee as provided in the Tennessee Code Annotated.
(4) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

**9-1606. Permit approval; transferability; conditions; renewal and revocation.**

(1) **Permit approval.** The permit application, if approved, shall be issued for a specific site location and/or address of the proposed short-term rental unit or grandfathered short-term rental unit provided in the application as set forth in this chapter of the city code. The OCM reserves the right to condition permit approval to a certain number of rooms, operating days/hours, signage, or other restrictions, including but not limited to vegetative or other sight screening and directional outdoor lighting requirements, as may be deemed necessary to address impacts to adjacent or nearby properties and/or to ensure safe operation of the property. Said conditions will be based on the recommendation of the OCM.

Upon receipt of a short-term rental unit permit number, the applicant must display said number on any materials or platforms used to advertise the short-term rental unit.

(2) **Grant or denial of application.** Review of an application shall be conducted in accordance with due process principles and shall be granted unless the applicant fails to meet the conditions and requirements of this chapter, or otherwise fails to demonstrate compliance with generally applicable local ordinances, state or federal law. Any false statements or information provided in the application are grounds for revocation, suspension and/or imposition of penalties, including denial of future applications. The decision of the OCM as to whether to issue, deny or revoke any permit shall be final, reviewable only by application for writ of certiorari to the Chancery Court of Hamilton County, Tennessee as provided in the Tennessee Code Annotated.

(3) **Transferability.** The certificate is non-transferable to another site, property, location or owner. Grandfathered short-term rental unit permits are subject to additional transferability restrictions as provided in Tennessee Code Annotated, § 13-7-601, et seq., as now enacted or hereafter amended.

(4) **Revocation.** The city reserves the right to suspend, revoke and/or modify any permit as restrictions and/or conditions imposed as a granted short-term rental unit at any time upon notice to the address of record for the short-term rental unit and after a public hearing. Once the property has three (3) documented city code and/or other violations of any generally applicable state laws or breaches of the peace within any running twelve (12) month period and/or based upon unreasonable interference with the use and enjoyment of adjoining or other nearby properties. Such violations shall be evidenced by a finding of guilt or fault or unreasonable interference with the use and enjoyment of nearby properties, by a court or an administrative officer or other body designated by the city commission.
A short-term rental unit permit which is revoked shall prevent its permit holder and/or any owner of or agent for the specific property from applying for a new permit for short-term rental unit permit for a period of one (1) year from date of revocation.

(5) Suspension of permit. The OCM may suspend a previously issued permit in the event that a permittee is found to be noncompliant with any of the terms, conditions or requirements of this chapter. Any permit which is suspended for administrative noncompliance with permitting requirements may be, upon payment of a fifty dollar ($50.00) reinstatement and inspection fee, be reinstated upon the permittee demonstrating, to the satisfaction of the OCM, that the noncompliance issue(s) which resulted in suspension of the permit have been resolved.

(6) No property shall be operated as a short-term rental unit which its permit is suspended and/or if its permit has been revoked and unless and until a valid short-term rental unit permit shall be subsequently issued by the OCM.

(7) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1607. Short-term rental unit annual fee. (1) There shall be a short-term rental unit permit renewal and inspection fee to be paid annually in the amount of one hundred dollars ($100.00) which, upon inspection by the city and satisfactory demonstration of compliance by the permit holder and property of the terms, provisions and conditions of the chapter shall entitle the permittee to renewal of the permit for the ensuing twelve (12) months.

(2) Failure to pay the annual renewal fee and to cooperate with permit inspection requirements shall result in suspension of the permit which, if not remedied within sixty (60) days after suspension, shall automatically result in revocation of the permit for that particular location. (as added by Ord. #18-1108, July 2018)

9-1608. Short-term rental agent. (1) The owner of a short-term rental unit shall designate a short-term rental agent on its application for a permit for a short-term rental unit. A property owner may serve as the short-term rental agent. Alternatively, the owner may designate a person as his or her agent who is over age eighteen (18) and meets all local and state regulatory requirements to fulfill the duties of a short-term rental agent.

(2) The duties of the short-term rental agent are to: (a) Be reasonably available to handle any problems arising from use of the short-term rental unit;

(b) Appear on the premises of any short-term rental unit within two (2) hours following notification from the city of issues related to the use or occupancy of the premises. This includes, but is not limited to,
notification that occupants of the short-term rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the city code or other applicable law pertaining to noise, disorderly conduct, overcrowding, consumption of alcohol, or use of illegal drugs. Failure of the agent to timely appear to two (2) or more complaints regarding violations may be grounds for penalties and/or permit/certificate revocations as set forth in this chapter. This is not intended to impose a duty to act as a peace officer or otherwise require the agent to place himself or herself in a perilous situation;

(c) Receive and accept service of any notice of violation or notice of hearing related to the short-term rental unit; and

(d) Monitor the short-term rental units for compliance with all laws, including without limitations compliance with the provisions of the hotel-motel tax authorized by Tennessee Code Annotated, § 67-4-1401 et seq.;

(3) An owner may change his or her designation of a short-term rental agent temporarily or permanently; however, there shall only be one (1) such agent for a property at any given time. To change the designated agent, the owner shall notify the OCM in writing of the new agent's identity, together with all information regarding such person as required by the applicable provisions of this chapter.

(4) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1609. Failure to obtain permit; penalties. (1) Any violation of this article, including failure to obtain a permit or to renew a permit of continued or initiating operation of a short-term rental unit either without a permit or after revocation of a permit shall be punishable by a civil penalty of one hundred dollars ($100.00) per violation. Each day that the violation continues shall be a separate offense. There shall be a rebuttable presumption that a person or entity is in violation of this chapter if they list or hold out a property as a short term rental unit without first obtaining a short-term rental permit. This rebuttable presumption also applies to those dwellings featured on websites whose primary purpose is business related to short-term rental unit reservations.

(2) The owner and/or agent of or with respect to a "grandfathered short-term rental unit", which may be otherwise exempt from compliance with some of the regulations, conditions and requirements of this chapter shall nevertheless be required to apply for a permit within the thirty (30) days next following the effective date of this ordinance. If the owner or agent shall fail to apply within said thirty (30) day period or shall otherwise fail to meet the requirements of generally applicable laws, rules and ordinances as to said
grandfathered short-term rental units, shall, upon notice from the OCM cease operations as a short-term rental unit and shall not resume such operations or advertisement as a short-term rental unit until such time as the owner and/or property shall make a proper application for a permit and demonstrate compliance with all requirements of this ordinance and generally applicable law. As provided in Tennessee Code Annotated, § 13-7-604, a "grandfathered short-term rental unit" may lose grandfathered status by failure to adhere to and/or violation of all or any of the qualifying conditions and/or requirements of Tennessee Code Annotated, § 13-7-604, including but not limited to:

(a) The property used as a grandfathered short-term rental unit is sold or otherwise transferred by or from the owner(s) of the property when first qualified or established as a grandfathered short-term rental unit and/or

(b) The property ceases to be used as a short-term rental unit for any period of thirty (30) continuous months and/or

(c) The property has been found to be in violation of a generally applicable local ordinance or state law on three (3) or more separate times and with no appeal opportunities remaining.

(3) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1610. Invalidity of part; private agreements and covenants. Should any court of competent jurisdiction declare any section, clause or provision so declared unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provisions of this article. Additionally, this chapter shall in no way be used to supersede any privately created agreements or covenants by any homeowner associations or developers restricting certain uses. (as added by Ord. #18-1108, July 2018)