

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

CARNIVALS OR FAIRS

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9-101. Definitions. As used in this chapter the following terms shall be defined as stated herein:

(1) "Amusement device." Any equipment or piece of equipment, appliance or combination thereof designed or intended to entertain or amuse for a fee.

(2) "Amusement ride." Any amusement device or combination of devices, which carries passengers along, around or over a fixed or restricted course for the purpose of amusement and for a fee.

(3) "Carnival." An enterprise offering amusement or entertainment to the public in, upon, or by means of amusement devices or rides or concession booths.

(4) "Concession booth." A building, structure, or enclosure located at a fair or carnival from which amusements or games are offered to the public for a fee.

(5) "Fair." An enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of amusement rides or devices or concession booths.

(6) "Operator." A person, or the agent of a person, who owns or controls the operation of an amusement ride, device or concession booth.

(7) "Restraining device." A safety belt, harness, chain, bar or other device, which affords actual physical support, retention or restraint of a passenger of an amusement ride or device. (1982 Code, § 5-104, as replaced by Ord. #845, April 2010)

9-102. Carnival or fair permit and certificate of use. No person shall conduct or operate or allow to be conducted or operated in any place owned, leased, managed or controlled by him, any carnival or fair in the city without first obtaining and maintaining:

(1) A valid carnival or fair permit as provided for in this chapter; and
(2) A valid certificate of use regarding the carnival or fair which shall issue from the building inspector after all the conditions, requirements and inspections provided for in this chapter as prerequisites to the issuance of a certificate of use have been met prior to the opening of the carnival or fair to the public; and

(3) All other approvals, permits and licenses required by this chapter and other applicable laws and regulations. (as added by Ord. #845, April 2010)

9-103. Use of city property. No person shall conduct or allow to be conducted on city streets, right-of-way, parks or other city property a carnival or fair without first obtaining the written permission of the city board or their authorized representative. (as added by Ord. #845, April 2010)

9-104. Application for carnival or fair permit. Applications for a carnival or fair permit shall be made at least thirty (30) calendar days and no more than ninety (90) calendar days prior to the proposed opening date of the carnival or fair. Applications for a carnival or fair permit shall be made to the city recorder by the person or entity, which will conduct or perform the carnival or fair. Any limitations or representations set forth in the application including but not limited to proposed hours of use, shall be binding on the applicant and shall constitute a condition of the carnival or fair permit's issuance, the breach of which may result in the nullification of the carnival or fair permit. Each carnival or fair permit shall include:

(1) The name, complete permanent home address, and telephone number of the person requesting permit.

(2) The name and address of the organization or group sponsoring the event. A copy of the organization's articles of incorporation, partnership agreement, charter, or other organizing documents, if applicable, shall be attached to the application.

(3) The name, address and telephone number of the person who will act as contact person for the event and be responsible for the conduct thereof.

(4) The purpose of the proposed carnival or fair.

(5) Location of event, including written permission of any private property owner, or other person in control of the property owned at which the applicant proposes to hold the carnival or fair.

(6) The date or dates the carnival or fair is proposed to be conducted and the hours it will commence and terminate each day.

(7) The specific assembly and disbursal locations, and the specific route plan to be used, if applicable, if any part of the carnival or fair will be assembled in one place and then moved to another.

(8) A list of every amusement device or ride with descriptive name and identification number and a certificate from the owner and/or manager in charge of the carnival or fair that each operator of each such amusement device or ride has appropriate and sufficient training and knowledge of how to properly and safely operate each amusement device or ride he or she will operate at the fair or carnival.

(9) A positive certification from an independent testing agency certifying that each amusement ride or device has passed a load test in accordance with manufacturer's specifications within one (1) year of the date of the carnival or fair. Modifications to the original design (such as restraining devices not found on the original design) must be reflected in the load test or reviewed and approved by a licensed engineer. Such engineer's approval report

shall be in writing and in sufficient detail as to indicate the extent of the modification(s), shall contain a written description and/or illustration of the modification approved and shall set forth the engineer's seal and current contact information.

(10) A list of names of all persons who will work at or be employed at the carnival or fair when it is proposed to be in operation in the city including each such person's driver's license number and state of issuance or social security number.

(11) A State of Tennessee business license or transient vendor license.

(12) Such other information as the city may deem reasonably necessary.

(13) A list of any non-profit sponsorships within the city (i.e. Lion's Club) and what amount of payment, percentage of sales, or contribution will be given to the sponsor.

(14) A certification that the statements in the application are true, accurate and complete. (as added by Ord. #845, April 2010)

9-105. Application fee. A non-refundable application fee of five hundred dollars (\$500.00) shall be submitted with the application for a carnival or fair permit. (as added by Ord. #845, April 2010)

9-106. Permit fee. There will be a fee of two thousand dollars (\$2,000.00) for the issuance of the carnival or fair permit payable prior to the issuance of the permit. (as added by Ord. #845, April 2010)

9-107. Transient vendor business license required. Each applicant who is issued a carnival or fair permit under this chapter shall further be required to obtain prior to the opening of the carnival or fair a transient vendor business license from both the City of Sweetwater and from the Monroe or McMinn County Court Clerk, as applicable. (as added by Ord. #845, April 2010)

9-108. Posting of required permits, etc. The following valid and current documents shall be posted in a prominent location easily visible to the public at each carnival or fair operated in the city during all times when the fair or carnival is open for business:

(1) Carnival or fair permit;

(2) City transient vendor business license;

(3) County transient vendor business license;

(4) Certificate of use by appropriate city official. (as added by Ord. #845, April 2010)

9-109. Review and consideration of applications and appeal process. The city recorder or designated representative shall initially review the application for a carnival or fair permit to ensure that all required information has been included. The city recorder, with the advice of appropriate

affected city operating departments, will then consider the application based on the following criteria:

- (1) Appropriateness of the location of the proposed event to the surrounding community.
- (2) Date and time of proposed event.
- (3) The length of the proposed event.
- (4) The impact on residential and commercial neighbors.
- (5) Other events previously scheduled in the city on the same dates.
- (6) The amount and availability of city personnel necessary to regulate and monitor the proposed event.
- (7) The interference with peak transportation periods, movement of emergency vehicles, or schedules of various construction projects.
- (8) Concerns about problems with parking, sanitation and dispersal routes at the proposed event at the time and location contemplated by the application.
- (9) Adequacy of the application and the information provided therein.
- (10) Any other relevant information pertaining to the health, safety and general welfare of the citizens of and visitors to the city.
- (11) Past experience with the applicant or those associated with the applicant. Upon completion of this analysis, and within a reasonable time, the city recorder will determine whether or not the carnival or fair permit shall be issued to the applicant and shall advise the applicant of the decision. A permit may be used with or without additional conditions imposed by the city recorder. If the application for a carnival or fair permit is denied, the city recorder will provide the applicant an explanation in writing as to the reasons for the denial. The applicant has the right to appeal in writing the conditions placed on the issuance of a permit or the denial of a permit to the city recorder's office within ten (10) business days of the issuance of the conditional permit or of the date of the denial letter, as applicable, for submission to the city board for review. (as added by Ord. #845, April 2010)

9-110. Bond required. Prior to the issuance of a certificate of use, a cash bond shall be provided to the City of Sweetwater in the amount of one thousand dollars (\$1,000.00) for each carnival or fair on the condition that the operators and owners of the carnival or fair shall comply fully with the provisions of this chapter and the statutes of the State of Tennessee during the setting up, operation of, and closing down of the applicable carnival or fair. If all conditions are met to the satisfaction of the city, the bond will be refunded within thirty (30) days of the expiration of the carnival or fair permit. If the city determines that all conditions have not been met, it may retain all or part of the bond as appropriate to compensate it for the costs incurred due to the lack of compliance. If costs incurred exceed bond amount, the carnival or fair will be billed the additional amount. (as added by Ord. #845, April 2010)

9-111. Inspections. The following city employees must perform and a carnival or fair must pass the following inspections before a certificate of use may issue. Animals in any way connected to the carnival or fair must be properly restrained to allow inspectors to perform their work.

(1) Sweetwater Utilities Board inspector to review:

(a) Inspection of extension cords for wear and splices. Cords are required to have locking-type receptacles and plugs;

(b) Emergency cut-offs on carnival rides;

(c) Water quality (as is set forth below if the sanitary sewer of the city is used by or in connection with the carnival or fair).

(2) Building inspector. (a) Inspection of blocking and scotching of wheels and leveling arms;

(b) Check for guards on belts and other moveable devices;

(c) Walk-through inspection for obvious safety violations (no mechanical inspections);

(d) Any other matter which comes to the attention of the building inspector which causes him concern for the health, safety, and welfare of any person regarding the carnival or fair operation.

(3) Fire inspector. (a) Inspection for fire extinguishers in a number to be determined by the Sweetwater Fire Department;

(b) Inspection for smoke detectors in sleeping quarters, in generator trailers, and on all carnival rides;

(c) Inspection of location and accessibility of items for fire and life safety. (as added by Ord. #845, April 2010)

9-112. Daily inspection reports required. Daily inspection reports in a form provided by the building inspector shall be submitted each day a carnival or fair is opened to the public. Such daily inspection reports shall state that the owner or manager in charge of the carnival or fair has inspected each amusement device or ride for safety concerns in advance of opening the carnival or fair to the public that day and that each such ride passed such inspection. A daily inspection report shall be provided to the building inspector and/or his agents prior to the operation of the carnival or fair each day for that day. (as added by Ord. #845, April 2010)

9-113. Sanitation requirements. Temporary restroom facilities must be provided at a carnival or fair in a number to be determined by city code enforcement with a minimum of four (4) separate facilities in addition to the existing city sanitary system. No dumping of holding tanks into the city storm sewer system is allowed. Any discharge of gray-water in connection with a carnival or fair, including dumping, must flow directly to the city sanitary sewer system and meet the following requirements:

(1) Connections as per International Building Code and the Rules, Regulations, Rates and Policies of the City of Sweetwater and Sweetwater

Utilities Board Water Quality Control Department, the Sweetwater Utilities Board Sewer Use policy and any other applicable regulations.

(2) All discharge must meet the standards of the pretreatment ordinance and the sewer use ordinance, including but not limited to the prohibition on the discharge of chemicals and cooking grease into the sanitary sewer system.

(3) Connections must be such as to not allow rainwater inflow.

(4) If authorized, connections may be made at a sanitary sewer manhole using a special manhole cover drilled to accept a four inch (4") PVC elbow and riser or standard dump station connection subject to inspection. A manhole may be provided by WQC department upon request.

(5) Connections may be made at other approved locations subject to review and inspection.

(6) The appropriate city personnel must inspect all connections prior to use. (as added by Ord. #845, April 2010, and amended by Ord. #550, July 2010)

9-114. Water service for carnival or fair. If water is to be used at carnival or fair, a responsible party for the carnival or fair must sign up for temporary water service with the Sweetwater Utilities Board Water Department and must pay for consumption billed at current Sweetwater Utilities Board Water Department rates before leaving the city and must operate pursuant to the following regulations:

(1) Connections must be in compliance with the Southern Building Code and the Rules, Regulations, Rates and Policies of the Sweetwater Utilities Board Water Quality Control Department, and any other applicable regulations;

(2) Connection must be through a meter;

(3) Connection must include a backflow prevention device at the connection point;

(4) The appropriate city personnel must inspect all connections. (as added by Ord. #845, April 2010)

9-115. Storm water inlet protection required. A responsible party for a permitted carnival or fair is required to protect any storm water inlets from pollution that may impair water quality or system function where such storm water inlets are impacted or potentially impacted by carnival or fair operations. No equipment known to leak or to deposit oil, grease, or any other pollutant may be used without making adequate provision for total, weatherproof collection and approved disposal of the pollutant. (as added by Ord. #845, April 2010)

9-116. Utility deposit required; return of deposit. Use of the water or sewer system of Sweetwater Utilities Board for or in connection with a carnival or fair, a temporary utility deposit in the amount of one thousand dollars (\$1,000.00) will be required. Upon:

- (1) Return of all meters and equipment to the city; and
- (2) Passing a post-use inspection of the sanitary sewer system involved with the carnival or fair's use; and
- (3) Full payment of any outstanding water and sewer use billing, the deposit will be refunded within thirty (30) days of the last of these conditions to occur. (as added by Ord. #845, April 2010)

9-117. Proof of contact of health department where food is served. Prior to receiving a certificate of use, a responsible person for the carnival or fair must show in writing that the Monroe/McMinn County Health Department has received notice if any food is contemplated to be prepared and served at the carnival or fair so that appropriate inspections can be made. (as added by Ord. #845, April 2010)

9-118. Police presence required at carnival or fair's expense. At least one (1) officer of the Sweetwater Police Department shall be on duty at the carnival or fair during the operating hours of the carnival or fair. The cost of such officer shall be borne in advance by the carnival or fair and proof of compliance with this part shall be provided prior to the issuance of a certificate of use. (as added by Ord. #845, April 2010)

9-119. Cease operation. The city recorder or police chief is authorized to revoke a carnival or fair permit and order such carnival or fair to immediately cease its operation due to any violation of this chapter or if the city recorder deems the continuing operation of the carnival or fair to be a hazard to the health, safety or general welfare of the citizens of or visitors to Sweetwater. The city recorder or the building inspector further has the authority to cease operation of a particular amusement device or ride if it is found to be particularly unsafe or hazardous without shutting down the entire carnival or fair. (as added by Ord. #845, April 2010)

9-120. Duration of permit. A carnival or fair permit issued under the authority of this chapter shall expire no more than fourteen (14) days from the commencement of the carnival or fair and shall be non-transferable and non-assignable. (as added by Ord. #845, April 2010)

9-121. Public liability insurance. Before a certificate of use is granted to allow the opening of the carnival or fair, the carnival or fair operators shall furnish evidence that they have in force at the time such a carnival or fair is to operate in the city the following coverages, which would apply to the carnival or fair and its operations:

- (1) Worker's compensation insurance sufficient to comply with the State of Tennessee statutes;

(2) Comprehensive general liability insurance, by an insurance company licensed to do business in this state, providing coverage of two million dollars (\$2,000,000.00) combined single limit per occurrence. Such coverage shall include independent contractors, products liability and personal injury, and the city shall be an additional named insured;

(3) Comprehensive automobile liability providing for a single limit for five hundred thousand dollars (\$500,000.00) per occurrence and aggregate for owned, not owned, and hired motor vehicles. The city shall be an additional named insured; and

(4) Certificates of insurance in a form and with insurance companies acceptable to the city shall be filed with the city recorder prior to issuance of the certificate of use. (as added by Ord. #845, April 2010)

9-122. Other permits. The carnival or fair permit shall be in addition to any additional permits or licenses required by state and federal law or local ordinance. (as added by Ord. #845, April 2010)

9-123. Exemptions. Special events conducted solely by or in conjunction with the City of Sweetwater, the City of Sweetwater schools and the Monroe or McMinn County, Sweetwater, Sweetwater Parks and Recreation Commission, or those sponsored by a registered 501-3(c) non-profit organization with board permission shall be exempt from requirements of this chapter. (as added by Ord. #845, April 2010)

9-124. Hours of operation. It shall be unlawful for any person to hold or conduct any carnival, fair, circus, or other similar show or exhibition within the corporate limits except between the hours of 9:00 A.M. and 11:30 P.M. (as added by Ord. #845, April 2010)

9-125. Noise. Noise shall be restricted as required by the city police chief. (as added by Ord. #845, April 2010)

9-126. Penalty. In addition to cessation of operations of a carnival or fair as set forth above, the violation of this chapter is punishable to the fullest extent authorized for the enforcement of ordinances by the Sweetwater City Code and Tennessee Code Annotated. (as added by Ord. #845, April 2010)

CHAPTER 2

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-201. Definitions.
- 9-202. Exemptions.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Restrictions on peddlers, street barkers and solicitors.
- 9-206. Provisions regarding solicitors for charitable purposes.
- 9-207. Restrictions on transient vendors.
- 9-208. Display of permit.
- 9-209. Suspension or revocation of permit.
- 9-210. Expiration and renewal of permit.
- 9-211. Violation and penalty.

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

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

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

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

¹Municipal code references

Privilege taxes: title 5, chapter 2.

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

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

(c) Has been in continued existence as a charitable or religious organization based in the Sweetwater Metropolitan Planning Region or Monroe County for a period of one (1) year prior to the date of its application for registration under this chapter.

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

(5) "Transient vendor"¹ means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to

¹State law references

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

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

selling or offering to sell novelty items and similar goods in the area of the festival or parade. (as amended by Ord. #879, May 2012)

9-202. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold.

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

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

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

(b) A brief description of the type of business and the goods to be sold or the charity or cause for which contributions will be solicited.

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

(d) The names and permanent addresses of each person who will make sales or solicitations within the city.

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

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

(g) A statement that control and supervision of the solicitation will be under responsible and reliable persons, that neither the applicant nor the applicant organization has engaged in any fraudulent transactions or enterprise, and the solicitation is for a bona fide charitable or religious purpose.

(i) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(ii) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to

be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(iii) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes.

(iv) Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

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

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

(5) Denial of permit. Any applicant for a permit under the provisions of this section may appeal to the governing body if he/she has not been granted a permit within fifteen (15) days after he makes application therefore. (as amended by Ord. #805, March 2007, and Ord. #844, Feb. 2010)

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

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

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

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

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

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

9-206. Provisions regarding solicitors for charitable purposes. No solicitor for charitable purposes shall:

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk.

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

(3) Call attention to his solicitation efforts by crying out, by blowing a horn, by ringing a bell or creating other noise that is disruptive to the public peace.

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

(5) Solicit in vehicular traffic lanes or operate a "road block" of any kind unless the solicitation permit has specifically indicated it is for the purpose of conducting a road block and the following requirements have been met in seeking such permit:

(a) All persons engaging in such road block must be eighteen (18) years of age or older;

(b) Such road block is only conducted during daylight hours;

(c) Signs the size of standard poster board, at a minimum, are displayed for each lane of roadway occupied at the road block site clearly identifying the charity or cause for which funds are being raised in a type or font size that can be read by motorists from their vehicles;

(d) Orange or lime green safety vests, or similar brightly colored articles of clothing, are worn by each participant so as to be clearly visible to motorists;

(e) Releases of liability and assumption of the risk acknowledgments are executed on behalf of the organization seeking the permit and each adult participant in the road block activity;

(f) No more than two (2) such permits shall be available for any given calendar month on a first come, first served basis;

(g) Such "road block" activity is allowed only at the intersection of Main Street and Monroe Street or the intersection of Main Street and

North Street within the city limits, such activity being specifically prohibited at the intersection of Main Street and Highway 68;

(h) No permit shall authorize more than one (1) event at a time and no permit may be sought more than one (1) year prior to the proposed date of the event. (as added by Ord. #805, March 2007)

9-207. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (as renumbered by Ord. #805, March 2007)

9-208. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand. (as renumbered by Ord. #805, March 2007)

9-209. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the city recorder for any of the following causes:

- (a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or
- (b) Any violation of this chapter.

(2) Suspension or revocation by the board. The permit issued to any person or organization under this chapter may be suspended or revoked by the board, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (as renumbered by Ord. #805, March 2007)

9-210. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city.

The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days. (as renumbered by Ord. #805, March 2007)

9-211. Violation and penalty. In addition to any other action the city may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense. (as renumbered by Ord. #805, March 2007)

CHAPTER 3

YARD SALES

SECTION

- 9-301. Definitions.
- 9-302. Property permitted to be sold.
- 9-303. Permit required.
- 9-304. Permit procedure.
- 9-305. Permit conditions.
- 9-306. Hours of operation.
- 9-307. Exceptions.
- 9-308. Display of sale property.
- 9-309. Display of permit.
- 9-310. Advertising.
- 9-311. Persons exempted from chapter.

9-301. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Garage sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance¹, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.

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

9-302. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property.

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

9-303. Permit required. No garage sale shall be conducted unless and until the individuals desiring to conduct such sale obtains a permit therefore from the city recorder. Members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them. Permits may be obtained for any nonresidential location.

9-304. Permit procedure. (1) Application. The applicant or applicants for a garage sale permit shall file a written application with the city recorder at least three (3) days in advance of the proposed sale setting forth the following information:

- (a) Full name and address of applicant or applicants.
- (b) The location at which the proposed garage sale is to be held.
- (c) The date or dates upon which the sale shall be held.
- (d) The date or dates of any other garage sales by the same applicant or applicants within the current calendar year.
- (e) A statement that the property to be sold was owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale.

(f) A statement that the applicant will fully comply with this and all other applicable ordinances and laws.

(2) Permit fee. An administrative processing fee of five dollars (\$5.00) for the issuance of such permit shall accompany the application.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit.

9-305. Permit conditions. The permit shall set forth and restrict the time and location of such garage sale. No more than three (3) such permits may be issued to one residential location, residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during any calendar year.

9-306. Hours of operation. Garage sales shall be limited in time to no more than 9:00 A.M. to 6:00 P.M. on three (3) consecutive days or on two (2) consecutive weekends (Saturday and Sunday).

9-307. Exceptions. (1) If sale not held because of inclement weather. If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is submitted, the city recorder shall issue another permit to the applicant for a garage sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held. No additional permit fee is required.

(2) Fourth sale permitted. A fourth garage sale shall be permitted in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the city recorder.

9-308. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a garage sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard.

9-309. Display of permit. Any permit in possession of the holder or holders of a garage sale shall be posted on the premises in a conspicuous place so as to be seen by the public, or any city official.

9-310. Advertising. (1) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale:

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

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

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

(3) Removal of signs. Signs must be removed each day at the close of the garage sale activities.

9-311. Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the City of Sweetwater, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances.

CHAPTER 4

TAXICABS¹

SECTION

- 9-401. Definitions
- 9-402. Franchise required.
- 9-403. Requirements as to application and hearing.
- 9-404. Liability insurance or bond required.
- 9-405. Revocation or suspension of franchise.
- 9-406. Mechanical condition of taxicabs.
- 9-407. Cleanliness of vehicles.
- 9-408. Inspections.
- 9-409. License and permit required for drivers.
- 9-410. Qualifications for taxicab driver's permit.
- 9-411. Revocation or suspension of taxicab driver's permit.
- 9-412. Soliciting business by drivers.
- 9-413. Parking.
- 9-414. Routes to be followed by taxicabs.
- 9-415. Use for illegal purposes.
- 9-416. Transportation of more than one passenger at same time.
- 9-417. Cleanliness of premises.
- 9-418. Refusal of passenger to pay fare.

9-401. Definitions. For the purposes of this chapter, the following words or terms shall have the meanings as set out herein:

(1) "Taxicab." The term "taxicab" refers to all automotive vehicles used in and upon the public streets carrying passengers for hire except motor buses or coaches operated by bus lines over designated routes in and through the city.

(2) "Taxicab business." The term "taxicab business" shall be held to mean the use of one or more taxicabs within the city for the purpose of carrying passengers for hire. (1982 Code, § 5-301)

9-402. Franchise required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the city. (1982 Code, § 5-302)

9-403. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years or is not a bona fide resident of the city. Applications for taxicab franchises shall be made under

¹Municipal code reference

Privilege taxes: title 5, chapter 2.

oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other relative information as the chief of police may require. Said application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab service; present the application to the mayor and board of commissioners; and make a recommendation to either grant or refuse a franchise to the applicant. The mayor and board of commissioners shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the mayor and board of commissioners shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs at the adoption of this code shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1982 Code, § 5-303)

9-404. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of two hundred fifty thousand dollars (\$250,000.00) for bodily injury or death to any one person, six hundred thousand dollars (\$600,000.00) for bodily injuries or death to more than one person which are sustained in the same accident, and eighty-five thousand dollars (\$85,000.00) for property damage resulting from any one accident. The required insurance or bond shall inure to the benefit of the city and any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a taxicab owner, operator, or driver. A copy of said insurance policy or bond shall be filed with the city recorder, or satisfactory proof showing that same is in full force and effect shall be filed with the city recorder. (1982 Code, § 5-304, modified)

9-405. Revocation or suspension of franchise. The mayor and board of commissioners, after a public hearing, may revoke or suspend any taxicab franchise for repeated violations of this chapter or the traffic laws of the city by the taxicab operator or his drivers. (1982 Code, § 5-405)

9-406. Mechanical condition of taxicabs. It shall be unlawful for any taxicab to operate in the city unless it is equipped with proper four (4) wheel brakes, front and rear lights, tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device

attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical functions shall be kept in such condition of repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1982 Code, § 5-306)

9-407. Cleanliness of vehicles. Every taxicab operated in the city shall, at all times, be kept in clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1982 Code, § 5-307)

9-408. Inspections. It is hereby required that all taxicabs shall be inspected at least semiannually by the chief of police or his designee to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1982 Code, § 5-308, modified)

9-409. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1982 Code, § 5-309)

9-410. Qualifications for taxicab driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

- (1) Makes written application to the chief of police.
- (2) Is at least eighteen (18) years of age and holds a state chauffeur's license.
- (3) Is of sound physique, with good eyesight and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.
- (5) Produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.
- (6) Has not been convicted of a felony within the last ten (10) years, drunk driving, or driving under the influence of an intoxicant or drug.
- (7) Is familiar with the state and local traffic laws.
- (8) Furnishes an annual statement from a licensed practitioner of medicine in the State of Tennessee certifying the condition of his health and his physical fitness to operate a taxicab. (1982 Code, § 5-310)

9-411. Revocation or suspension of driver's permit. The mayor and board of commissioners, after a public hearing, may revoke or suspend any

taxicab driver's permit for a violation of this chapter or for repeated violations of the traffic laws of the city. (1982 Code, § 5-311)

9-412. Soliciting business by drivers. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1982 Code, § 5-312)

9-413. Parking.¹ It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked their use. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. It is further provided that there is hereby set aside for the exclusive use of taxicabs that portion of the public street surrounding Circle Park, or Fountain Park, or Main Street. Such parking spaces shall be appropriately marked to show that they are reserved for taxicabs only. (1982 Code, § 5-313)

9-414. Routes to be followed by taxicabs. Every taxicab driver shall be required to deliver his passengers to their destinations by the most direct available route from where the passengers enter his cab. (1982 Code, § 5-314)

9-415. Use for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1982 Code, § 5-315)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of the latter. (1982 Code, § 5-317)

9-417. Cleanliness of premises. Each taxicab driver licensed by the city shall keep his place of business and/or cab stand in a clean and sanitary manner and shall clean the premises at least once a week. It shall be the responsibility of the chief of police or one of the officers under his direction to inspect the premises and/or cab stands located within the city at least once per month and filing a written report with the city recorder of his findings and recommendations, if any. (1982 Code, § 5-318)

9-418. Refusal of passenger to pay fare. It shall be unlawful for any person to refuse to pay the 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

¹Municipal code reference
Parking: title 15, chapter 6.

vehicle herein defined with the intent to defraud the person from whom it is hired of the value of such services. (1982 Code, § 5-319)

CHAPTER 5

MASSAGE PARLORS AND TECHNICIANS

SECTION

- 9-501. Definitions.
- 9-502. Massage parlor permit--required.
- 9-503. Same--application; renewals; fees.
- 9-504. Same--investigation of applicant; grounds for denial of application.
- 9-505. Same--investigation of premises and issuance.
- 9-506. Display.
- 9-507. Same--revocation; grounds; notice to permittee.
- 9-508. Massage parlor technician permit--required.
- 9-509. Same--application; renewal; fees.
- 9-510. Same--investigation of applicant; grounds for denial of application.
- 9-511. Same--display.
- 9-512. Same--revocation; grounds; notice to permittee.
- 9-513. Suspension of permits; reinstatement.
- 9-514. Appeals from permit denials, suspension or revocations.
- 9-515. Public health card required for a massage technician.
- 9-516. Examination of massage technicians; issuance of public health card.
- 9-517. Right of entry.
- 9-518. Minimum standards for parlors.
- 9-519. Individual health requirements for technicians.
- 9-520. Unlawful acts.
- 9-521. Alcoholic beverages.
- 9-522. Penalty.

9-501. 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.

9-502. 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.

9-503. 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 recorder. Each massage parlor permit application shall be accompanied by an investigation fee of one hundred dollars (\$100.00), payable to the city recorder. 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 filed with the application.

9-504. Same--investigation of applicant; grounds for denial of application. (1) Upon receipt of the application and fee as provided for in § 9-503 of this code, the city recorder 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 recorder within thirty (30) days of this request.

(2) The city recorder shall deny any application for a massage parlor permit under this chapter after notice and hearing if the city recorder 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 recorder 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.

9-505. Same--investigation of premises and issuance. The chief of police, before any massage parlor permit is issued, shall cause an 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 chief of police within thirty (30) days of the request.

9-506. 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.

9-507. Same--revocation; grounds; notice to permittee. (1) Power generally. The city recorder 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, a felony, 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 recorder of a false statement on the application.

(c) Upon evidence presented before the city recorder 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 recorder 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 recorder 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.

9-508. 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.

9-509. 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 recorder, 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 shall state whether the applicant 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).

9-510. Same--investigation of applicant; grounds for denial of application. (1) Upon receipt of the application and fee as provided for in § 9-509 of this code, the city recorder 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 recorder within thirty (30) days of the request.

(2) The city recorder shall deny any application for a massage technician permit under this chapter after notice and hearing, if the city recorder finds that the applicant has within a period of two (2) years prior to his application been convicted of a felony, 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 recorder 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.

9-511. 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.

9-512. Same--revocation; grounds; notice to permittee. Any massage technician permit granted under this chapter shall be revoked by the city recorder 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 recorder 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.

9-513. Suspension of permits; reinstatement. If the chief of police or the city recorder 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 recorder, or their duly authorized representatives the right to enter the premises to enforce the provisions of this chapter, upon report to the city recorder 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 recorder 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.

9-514. Appeals from permit denials, suspensions or revocations. Any applicant or permittee aggrieved by the actions of the city recorder in the denial of an application for a massage parlor permit or massage technician permit, or by the decision of the city recorder 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 recorder, within ten (10) days after the action complained of has been taken, a written statement setting forth fully the grounds for appeal. The city recorder 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 recorder, 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.

9-515. 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.

9-516. Examination of massage technicians; 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 Monroe 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 recorder the certificate required herein within five (5) days of the commencement of their employment and at least once every six (6) months thereafter.

(2) When there is cause to believe that the massage technician is capable of communicating any contagious disease to others, the city recorder 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 recorder, or their duly authorized representative at all reasonable times.

9-517. Right of entry. The chief of police or the city recorder 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 chapter 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 Monroe 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 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 recorder. 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.

9-518. 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 instruments and materials shall be disinfected after use on each patron.

(2) Closed cabinets shall be provided and used for the storage of clean linen, 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 linen 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, lots 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.

9-519. 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 technician knows or should know 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 safely 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.

9-520. 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 genital 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 a 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.

9-521. Alcoholic beverages. No beer or alcoholic beverages may be sold, served or consumed upon any premises holding a license as provided for in this chapter.

9-522. Penalty. Any person violating any of the provisions of this chapter, upon conviction by the court, shall be fined in accordance with the general penalty provision of this code for each violation, and each day of violation of any provision of this chapter shall constitute a separate offense.

CHAPTER 6

ADULT-ORIENTED ESTABLISHMENTS

SECTION

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

9-601. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical area" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

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

(3) "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 as a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

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

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

(7) "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) "Mayor and board of commissioners" means the Mayor and Board of Commissioners of the City of Sweetwater, Tennessee.

(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.

9-602. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Sweetwater without first obtaining a license to operate issued by the City of Sweetwater.

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

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

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

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

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.

9-603. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the City Recorder of the City of Sweetwater. The application shall be filed in triplicate

with and dated by the city recorder. A copy of the application shall be distributed promptly by the city recorder to the police chief and to the applicant.

(2) The application for a license shall be upon a form provided by the police chief. 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 interest in land of members of any limited liability company) shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past three (3) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time each applicant has been a resident of the City of Sweetwater, 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 police chief 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 Sweetwater Police Department, the city recorder shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the city recorder 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 mayor and board of commissioners.

(4) Whenever an application is denied or held for further investigation, the city recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the mayor and board of commissioners at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented license is denied by the mayor and board of commissioners 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 Monroe 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 recorder.

9-604. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

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

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

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-603 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-603 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 Sweetwater Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application.

9-605. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments,"

no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the police chief.

9-606. Application for permit. (1) Any person desiring to secure a permit shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

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

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past three (3) years.
- (d) The applicant's height, weight, color of eyes, and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (i) The length of time the applicant has been a resident of the City of Sweetwater, 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 Sweetwater Police Department, the police chief shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the police chief shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of

notification of denial, a public hearing shall be held thereafter before the mayor and board of commissioners 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 police chief.

9-607. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

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

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

(2) No permit shall be issued until the Sweetwater Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application.

9-608. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (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.

9-609. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Sweetwater Police Department, or any person designated by the mayor and board of commissioners.

9-610. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall

make application to the police chief. 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 police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be on a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the mayor and board of commissioners.

(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 ($\frac{1}{2}$) of the total fees collected shall be returned.

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

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

(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 ($\frac{1}{2}$) of the fee shall be returned.

(6) If the Sweetwater Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief.

9-611. Revocation of license or permit. (1) The police chief shall revoke a license or permit for any of the following reasons:

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

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

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

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

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

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

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

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

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

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

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

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

9-612. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Sweetwater Police Department, the Monroe County Sheriff's Department, or such other persons as the mayor and board of commissioners may designate.

9-613. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the mayor and board of commissioners. 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 Sweetwater 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 Sweetwater Police Department at all reasonable times.

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

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

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

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

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

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

(a) Not permitted to engage in any type of sexual conduct;

(b) Not permitted to expose their sex organs;

(c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

9-614. 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 inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer.

9-615. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.

CHAPTER 7

CABLE TELEVISION

SECTION

9-701. Regulation of rates charged for cable television service and equipment.

9-702. Definitions.

9-701. Regulation of rates charged for cable television service and equipment. Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992 at 47 U.S.C. 453, and Federal Communications Commission action under the authority of said Act certifying the City of Sweetwater to regulate basic cable television service within the boundaries of the City of Sweetwater; and for the purpose of regulating the rates charged to customers of any cable television operator franchised by the City of Sweetwater, the regulations contained in Title 47 of the Code of Federal Regulations, Part 76, Subpart N, §§ 76.900 through 76.985, are hereby adopted and incorporated by reference as part of this code. (Ord. #660, Feb. 1994)

9-702. Definitions. Whenever the regulations cited in § 9-801 refer to "franchising authority," it shall be deemed to be a reference to the Board of Commissioners of the City of Sweetwater, Tennessee. (Ord. #660, Feb. 1994)