

Chapter 11

BUSINESSES, TRADES AND OCCUPATIONS

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Editor's note -- Article III, Division 2, Sections 11-76 through 11-100, and Article III, Division 3, Sections 11-101 through 11-130, were repealed by Ord. No. 9589, § 1, adopted 7-30-91.

Editor's note -- Sections 11-266--11-280 (former Article IX, "Soil Erosion Control") were repealed by Ord. No. 9942, § 2, adopted 8-31-93, and certain provisions thereof incorporated in Chapter 31, Article VIII, "Storm Water Management."

Cross references -- City treasurer to issue all licenses and permits unless otherwise provided, § 2-108; permit required to erect and maintain billboards and signboards, § 3-6 et seq.; installation, permit for fuel and refuse burning equipment, § 4-8; beer permits generally, § 5-71 et seq.; liquor licenses, § 5-121 et seq.; permits required for bottle club establishments, § 5-181 et seq.; permit required for drive-in theaters, § 6-21; permit required for billiards or pool tables, § 6-42; license required for coin-operated amusement devices, § 6-62; license for family amusement centers, § 6-82 et seq.; pound fees, § 7-28; registration of dogs required, § 7-52; license tags for dogs, § 7-54; disposition of fees collected under dogs article of animals and fowl chapter, § 7-68; permit required for trapping of wildlife, § 7-122 et seq.; lease with city required for fixed base operators at municipal airport, § 8-65; fixed base operators' activity fees levied, § 8-68; permits required for installation of electrical wiring, § 14-12; examination, licensing and certification of electricians, § 14-75 et seq.; permit required for operation of high frequency radio receiver, § 16-72; permit required for private security police agencies, § 16-92 et seq.; fees for firearm permits,

§ 16-100; private garbage collection permit, § 18-66; location permits for collection of garbage from particular location or premises, § 18-68; fees for use of refuse transfer stations, § 18-123; permits for gas installation and repair work, § 19-26 et seq.; examination and certification of gasfitters and installers, § 19-86 et seq.; licenses required for gasfitters and installers, § 19-121 et seq.; rat control in business buildings, § 20-86 et seq.; housing referral agency, § 21-76 et seq.; fair housing regulations, § 21-81 et seq. metropolitan transit authority, Ch. 23; vehicle licenses, § 24-391 et seq.; soliciting in business buildings restricted, § 25-21; beggars' permits for solicitation on public streets, § 25-46 et seq.; permit required for public meetings and gatherings in parks, § 26-13 et seq.; permit for interment in citizens' cemetery required, § 26-38; permit required for meetings, etc., in Miller Park, § 26-59 et seq.; certification of competency of plumbers, § 27-56 et seq.; tuition for nonresident pupils in city schools, § 30-3; permit required to make sewer connections, § 31-6; sewer service charges, § 31-31 et seq.; industrial wastes charges and fees, § 31-41 et seq.; permit and inspection fees required for septic tank installations, § 31-246; license required to make excavations, build or repair sidewalks or occupy streets or sidewalks, § 32-13 et seq.; permit required to obstruct gutter, § 32-41; excavation permit required for excavations and streets generally, § 32-62 et seq.; permit required for encroachments on state and federal highways, § 32-86; permit required for excavations on state and federal highways, § 32-88; sidewalk gratings and openings for which permits may be issued, § 32-127; permits required for driveways and curb cuts, § 32-146; permit required to erect poles, § 32-216 et seq.; permit required for public swimming pools, § 33-22 et seq.; permits for trailer camps, § 34-51 et seq.; permit required for wrecking and towing services, § 35-150; water service by companies, § 36-16 et seq.; weights and measures, Ch. 37.

ARTICLE I. IN GENERAL

Sec. 11-1. Sales tax limits.

The maximum tax limit on the sale or use of any single article of personal property under the local option sales or use tax is hereby removed and from and after July 1, 1985, the sales or use tax levied pursuant to T.C.A. section 67-6-702 shall be applied to the maximum base set by *Tennessee Code Annotated, Section 67-6-702(a)* on the sale or use of any single article of personal property.

(Code 1986, § 11-1; Ord. No. 10465, § 14, 9-3-96)

Secs. 11-2 -- 11-15. Reserved.

ARTICLE II. AUCTIONS AND AUCTIONEERS¹

DIVISION 1. GENERALLY

Sec. 11-16. Sales excepted from chapter.

The provisions of this chapter shall not extend or apply to judicial sales, sales under executions or to executors' or administrators' sales.
(Code 1986, § 11-16)

Sec. 11-17. Fraudulent bidding.

It shall be unlawful for any person to act, or employ another to act as a by-bidder or what is commonly known as a "capper" or "booster" at any auction sale, or to make or accept any false or misleading bid, or to pretend to buy or sell any articles sold or offered for sale at any auction.
(Code 1986, § 11-17)

Sec. 11-18. Sales on streets, public landings.

It shall be unlawful for any person to sell at auction any livestock, vehicles, furniture, goods, wares or merchandise upon the streets of the city or upon any public landing.
(Code 1986, § 11-18)

Cross reference -- Streets and sidewalks, Ch. 32.

Secs. 11-19 -- 11-30. Reserved.

DIVISION 2. JEWELRY AUCTIONS

Sec. 11-31. Definitions.

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Auction sale. Any sale where jewelry or other similar articles, as described in this article, are sold or offered at public outcry to the highest or best bidder, and shall include the selling of such property by the method known as "down hill selling."

Down hill selling. The first offering of an article at a higher price and then offering the same at successive lower prices until a bidder is secured, including the offering of an article at a fixed price and crying it for sale until that price is offered.

(Code 1986, § 11-31)

Cross reference -- Definitions and rules of construction generally, § 1-2.

¹ **Charter reference** -- Authority to license and to regulate auctioneers generally, § 2.1(15).

State law references -- Auctions generally, T.C.A. § 47-2-328.

Sec. 11-32. License-Required; fee.

No person shall conduct an auction sale of diamonds and other precious or semiprecious stones or imitations thereof, watches, clocks, jewelry, gold, silver or plated ware, china or glassware at public auction in the city without having first secured a license therefor and paid to the city a license fee in the sum of two hundred and fifty dollars (\$250.00).
(Code 1986, § 11-32)

Sec. 11-33. Same-Application; referral, investigation.

(a) No person shall conduct such auction sale, as described in section 11-32 in the city without having first made application to the mayor for permission to carry on such auction.

(b) When so filed, the application shall be referred to the same committee which passes on the application of beer licenses, who shall cause the applicant to come before them and who shall examine the applicant concerning his character, the location of the proposed auction and any other facts pertinent to whether or not such license should be granted in view of the fact that auction sales are susceptible of being carried on with fraud.

(c) After the committee has made their examination, they shall report to the mayor their opinion as to whether or not the license should be issued and the license may be granted or refused by the mayor, irrespective of the decision of the committee.

(d) Any person desiring to act as auctioneer of such items in the city shall file with the above committee his application in writing, giving the following information therein:

- (1) His name, age, address, occupation and place of business.
- (2) His experience in the sale of goods by auction.
- (3) All places where he has conducted auctions, for whom conducted and the nature of merchandise sold.
- (4) What license, as auctioneer, he has obtained from any other state or municipality, whether any license so obtained has been revoked or challenged, or whether any application for license has been refused.
- (5) Whether he has ever been convicted or accused of any crime involving moral turpitude.
- (6) Where and for whom he expects to auction in the city.

(Code 1986, § 11-33; Ord. No. 9654, § 81, 1-6-92)

Sec. 11-34. Same-Bond prerequisite to issuance.

Each application for a license under this division shall be accompanied by a bond in the penal sum of five thousand dollars (\$5,000.00), made by a surety company licensed to do business in the state, in substantially the following form:

*STATE OF TENNESSEE:
COUNTY OF HAMILTON:*

KNOW ALL MEN BY THESE PRESENTS, that we, _____, as principal, and _____ as surety, are held and firmly bound unto the City of Chattanooga, for its own use, in the penal sum of Five Thousand Dollars for the payment whereof well and truly to be made, we bind ourselves respectively and our heirs and administrators. The condition of this bond is such, that whereas the Code of Ordinances of the City of Chattanooga provides for the creating of an Auction Licensing Committee and provides for the application of auctioneers and regulates the business of auctioning in the City of Chattanooga, provides for the regulation of the business of auctioneering and requires each auctioneer to give bond in the penalty of Five Thousand Dollars, and whereas, the above bonded _____ has made application for a license as an auctioneer in the City of Chattanooga under such provisions of the Code of Ordinances.

NOW THEREFORE, If the said _____ shall well and truly perform and fulfill all his duties as an auctioneer and shall well and truly comply with all of the terms and conditions of the Code of Ordinances, then this obligation shall be void, otherwise to remain in full force and effect for the period of one year from date of this bond.

It is expressly understood that this bond is payable to and recoverable by the City of Chattanooga for its own use, and for the use of all persons suffering loss or damage by reason of violation of the Code of Ordinances by the above named principal, and to compel the principal herein to perform the obligation herein undertaken.

Witness the hands of the parties, this day of _____ 19____.

Principal

Surety

Approved

City Attorney

(Code 1986, § 11-34)

Sec. 11-35. Same-Display.

Each person licensed under this division shall display such license at the place where any auction sale is conducted, continuously during such sale.

(Code 1986, § 11-35)

Sec. 11-36. Same-Nontransferable; revocation and suspension.

No license issued by the mayor pursuant to this division shall be assignable or transferable. Any license so issued may be suspended, recalled or revoked by the mayor for any violation of the terms of this division or any ordinances governing the conduct of auction sales; provided that, charges shall be preferred in writing by the mayor and served upon the licensee or upon the person in charge of the auction who shall be given the right to be heard as to why such license should not be revoked or suspended.

(Code 1986, § 11-36; Ord. No. 9654, § 13, 1-6-92)

Sec. 11-37. Permits-Required.

It shall be unlawful for any person, directly or indirectly, through agents or otherwise, to sell or offer for sale at public auction in the city any items regulated by this division, except sales by an administrator or executor of the estate of a deceased person and sales made by virtue of a bona fide mortgage or court order, without first having obtained a permit for conducting the same through a regularly licensed auctioneer.

(Code 1986, § 11-37)

Sec. 11-38. Same-Application.

Any person desiring to conduct an auction sale of any items regulated by this division shall first file written application for a permit therefor, with the auction licensing committee created hereby, stating:

- (1) The name, address and occupation or business of the person desiring to conduct such auction.
- (2) The name, address and occupation or business of the person for whom the auction is to be conducted, if other than the applicant.
- (3) The name and address of the owner of the merchandise to be offered at such auction, with a true, complete, itemized and sworn inventory of such property, showing the cost price thereof and the source of the title thereto.

- (4) The place and hour of such auction, with an estimate of the duration thereof.
 - (5) A statement showing dates, places and nature of merchandise sold at all other auction sales by the applicant or the owner of the property to be auctioned, within two (2) years next preceding the date of the application.
 - (6) Whether or not additional merchandise, other than the inventory filed, or what is called "fill-in" stock, will be offered at such auction and, if so, the general nature and previous ownership of such additional or fill-in stock, with a sworn itemized inventory thereof.
 - (7) Whether or not the applicant was ever convicted of any crime involving moral turpitude or has a police record. This question refers to and includes the owner, or each of the owners, if applicant is a partnership, and each officer of the applicant if the applicant is a corporation.
 - (8) A copy of any proposed advertisement to be made to such auction or an agreement by the applicant that the quality, quantity or history of the merchandise will not be misrepresented in any advertisement thereof.
 - (9) Whether or not any other application for a permit by him or the owner of the goods has been refused and whether any such permit has been revoked or challenged after its issuance.
 - (10) The name and address of the auctioneer who will call or cry the auction.
 - (11) The necessity or reasons for the conducting of such auction.
- (Code 1986, § 11-38)

Sec. 11-39. Same-Bond to accompany application.

The applicant for an auction permit under this division shall also file with the committee a bond in the same form and penalty as required from the auctioneer under sections 11-33 and 11-34.

(Code 1986, § 11-39)

Sec. 11-40. Same-Issuance, duration.

Upon the filing of a permit application and bond under this division, the committee may require the applicant, the owner and other witnesses to appear in person before it, to answer further with reference to such application. If it then appears from the whole record, including the application, that the auction is for legitimate business purposes and not as a fraud upon the public, and that the auction is to be conducted at a suitable and proper place, considering the traffic on the street, the congestion on the sidewalk, the usual place of business of the applicant

and the business surrounding the proposed place of the auction; that the proposed advertisement of the auction fairly represents the merchandise to the public and that the applicant, owner and auctioneer are of good character and have not violated theretofore the provisions of this article or similar ordinances, and the sureties on his bond are solvent, upon production of receipt showing payment of all taxes for conducting the type of business for which the auction is being conducted, the mayor shall issue a permit for such period as shall be shown necessary to dispose of the property described, but in no event for a longer period than thirty (30) days from the date of issuance.

(Code 1986, § 11-40)

Sec. 11-41. Written description required on merchandise.

No person shall offer for sale or sell at public auction any diamonds or other precious or semiprecious stones, or imitations thereof, or any watches, clocks, jewelry or glassware, unless there is securely attached to each of such articles a tag or label upon which shall be plainly written or printed in English a true and correct statement of the kind and quality of the metal of which such article is made or composed, and the percentage of purity or karat of such metal. In case such articles are plated or overlaid, such tag or label shall contain a true statement of the kind of material or metal covered. When precious or semiprecious stones are offered for sale or sold, such written statement shall set forth the true name, weight, quality and fineness of such stones, and imitations shall be described as such. When watches or clocks are sold, the true names of the manufacturers shall be stated in writing and no part of the movement or mechanism thereof shall be substituted or contain false and misleading names or trademarks, nor shall secondhand or old movements be offered for sale in new cases without a true statement to that effect. Such tag or label shall be treated as a true and correct description of the article sold and are representation or warranty thereof, and shall remain securely attached thereto until the article is delivered to the purchaser.

(Code 1986, § 11-41)

Sec. 11-42. Acts prohibited.

It shall be unlawful and a misdemeanor:

- (1) For any auctioneer to knowingly or negligently misrepresent the quality or value of any article at any auction sale.
- (2) For any auctioneer to make any false representation or statement as to the ownership, character or circumstances of the owner or pretended owner of such property for the purpose of inducing the sale thereof.
- (3) For any auctioneer or person conducting the sale or owning the property to be sold to falsely advertise, state or represent that such goods, wares and merchandise are in whole or in part a bankrupt or insolvent stock, damaged goods or goods saved from fire or to make any false statement, representation or

advertisement as to the purchase, history or character of such goods, wares or merchandise.

- (4) For any auctioneer or person conducting an auction to represent or sell as new or unused merchandise any secondhand or used merchandise.
- (5) To offer for sale any merchandise other than the original stock inventory when "going out of business" or "closing out" sale has been advertised.
- (6) For any auctioneer or person conducting the sale to substitute any article in lieu of that described and offered to and purchased by the bidder.
- (7) To conduct or advertise to the public as conducting any auction sale between the hours of 6:00 p.m. and 8:00 a.m. of any day.
- (8) For any person licensed under this division to alter, transfer, lend, sell or rent out his license certificate or to use any license not his own.
- (9) For any person to falsely represent himself to be licensed under this division or to wrongfully use a license issued hereunder.
- (10) To conduct an auction sale covered by this division without a license or after the expiration of the license issued or after the revocation or suspension of such license.
- (11) For any auctioneer or person conducting the sale to sell or offer for sale at such auction any article not specifically listed in its inventory filed with the licensing board.
- (12) For any auctioneer or person conducting the sale to act or employ another to act as a "by-bidder" or what is commonly known as a "capper" or "booster" at any auction sale, or to make or accept any false or misleading bid or to pretend to buy or sell any property offered for sale in the auction.

(Code 1986, § 11-42)

Secs. 11-43 -- 11-55. Reserved.

ARTICLE III. BARBERSHOPS²

² **Editor's note** -- Division 2, Sections 11-76 through 11-100, and Division 3, Sections 11-101 through 11-130, were repealed by Ord. No. 9589, § 1, adopted 7-30-91.

Charter reference -- Authority to regulate barbering, § 2.1(56).

Cross reference -- Streets and sidewalks, Ch. 32.

State law references -- Barbers regulated, T.C.A. §§ 62-3-101--62-3-133; cosmetologists regulated, T.C.A. §§ 62-4-101--62-4-132.

DIVISION 1. GENERALLY

Sec. 11-56. Definition.

Any one (1) or any combination of the following practices, when done for payment, directly or indirectly, or without payment, for the public generally, shall constitute the practice of "barbering."

- (1) Shaving or trimming the beard;
- (2) Cutting or styling the hair;
- (3) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances;
- (4) Singeing, curling, shampooing, coloring, bleaching, or straightening the hair or applying hair tonics;
- (5) Cutting, fitting, measuring, and forming head caps for wigs or hair pieces; or
- (6) Hair weaving, excluding medical or surgical procedures.

(Code 1986, § 11-56)

Cross reference -- Definitions and rules of construction generally, § 1-2.

State law reference -- Similar provisions, T.C.A. § 62-3-105.

Sec. 11-57. Enforcement of article.

It shall be the duty of all peace officers and health officers of the city to enforce the provisions of this article.

(Code 1986, § 11-57)

Sec. 11-58. Employment of inspector; duties.

The mayor, with the approval of the city council, shall employ an inspector, on full or part-time pay, whose duty it shall be to make regular inspections of the barbershops of the city and see that the provisions of this article are enforced.

(Code 1986, § 11-58; Ord. No. 9654, § 2; 1-6-92)

Sec. 11-59. Compliance with state laws, regulations.

Every person in the city who practices barbering or those services commonly performed by beauty culturists, cosmeticians, cosmetologists or hairdressers shall comply with the provisions of state law applicable to such practice, and shall obey all the sanitary rules promulgated pursuant to state law in connection therewith.

(Code 1986, § 11-59)

Sec. 11-60. Interior view to be unobstructed.

The interior view of every room in which the practice of barbering is carried on shall be clear and unobstructed by any screen, nontransparent glass, shade, blind, door or shutter or by merchandise or other article.

(Code 1986, § 11-60)

Sec. 11-61. Use of prohibited rooms.

No room shall be used for the practice of barbering which is not permitted by law to be so used.

(Code 1986, § 11-61)

Sec. 11-62. Repealed. (Ord. No. 11548, §3, 05-04-04)

Editor's note--The repealed section dealt with barbering on Sunday.

Secs. 11-63 -- 11-130. Reserved.

ARTICLE IV. COAL AND COKE DEALERS

Sec. 11-131. Scope of article.

Every solid fuel dealer and every distributor of coal or coke in the city shall comply with the provisions of this article. For the purposes of this article, a distributor is any person engaged in the sale or distribution of coal and coke who delivers coal and coke from any source of supply other than a solid fuel dealer licensed by the city and by any means other than railroad cars and who uses the streets of the city in making such deliveries; provided that, nothing in this article shall apply to peddlers of coal or coke who buy from solid fuel dealers licensed by the city and who have standard measures and sell by the bushel or fraction thereof.

(Code 1986, § 11-131)

Sec. 11-132. Privilege tax to be paid.

Each solid fuel dealer and each distributor using the streets of the city for the delivery of coal or coke shall pay the privilege tax which the city is authorized by law to exact.

(Code 1986, § 11-132)

Sec. 11-133. Deliveries over streets to be weighed.

Except as provided herein, it shall be unlawful for any person in the city who does not have scales certified by the sealer of weights and measures to haul coal or coke over any street in the city for the purpose of delivery in the city unless the same has been weighed on the public

scales of the city or on scales designated by the city as soon as the vehicles used for transporting such coal or coke could be driven to such scales after entering the corporate limits. Interstate shipments of coal or coke shall not be required to be so weighed if such coal or coke has been weighed on scales certified by an incorporated town or city of the state from which such coal or coke was transported and the certificate furnished by such town or city showing that it has been weighed on such certified scales accompanies such shipment; provided that, the sealer of weights and measures or his deputies, and police officers, either on complaint of an interested citizen or at their own discretion, may require such interstate or intrastate shipments to be weighed, as provided in section 11-138 of this Code.

(Code 1986, § 11-133)

Sec. 11-134. Local dealers to have scales.

Every solid fuel dealer located in the city shall have at each of his yards a scale of at least five (5) tons' capacity, conforming to this Code and other ordinances of the city and laws of the state relating to weights and measures.

(Code 1986, § 11-134)

Sec. 11-135. How dealers outside city may have scales certified.

Dealers owning coal mines or yards located outside the corporate limits of the city, who have paid the city the privilege tax required by section 11-132 of this Code, and the inspection fee for each truck provided in section 11-138 of this Code, in order to sell coal in the city, may, in lieu of weighing their coal on the public scales of the city or on scales designated by the city, upon written notice to the city and payment to the city of an inspection fee of five dollars (\$5.00) for each inspection, plus the expense of transportation incident to such inspection, have their scales inspected by the sealer of weights and measures. The sealer of weights and measures shall inspect such scales at least once in each six (6) months, and more frequently if such course appears necessary. If such scales are found to be correct or are corrected so as properly to show the weight of coal weighed thereon, a certificate of such inspection shall be issued and delivered to the owner by the sealer of weights and measures and a duplicate shall be retained by the city. Such certificate shall be effective for six (6) months, subject to the right of revocation by the city for cause. During the life of such certificate, weights made after the issuance thereof shall be accepted as a compliance with the requirement of section 11-133 of this Code that coal be weighed on the public scales of the city or on scales designated by the city within the city limits.

(Code 1986, § 11-135)

Sec. 11-136. Weighing required before delivery; ticket to accompany load.

Every solid fuel dealer or distributor delivering coal or coke in the city shall correctly weigh such coal or coke, and shall furnish to the person in charge of and accompanying the load so weighed for delivery a bill of lading, or, as custom knows it, a delivery ticket, showing the name and address of the delivering dealer or distributor, the name and address of the consignee, the gross, tare and net weight and the kind and size of fuel to be transported over the streets of

the city. The requirement as to the kind and size of fuel shall be satisfied by stating the trade name, if there is a trade name of such fuel generally known to the trade, and if not, the seam from which the coal is mined may be stated. Such ticket shall bear the name or initials of the weigher for the delivering dealer or distributor, or, in case of delivery by a dealer or distributor from a point originating beyond the corporate limits of the city, who does not have scales certified as provided in section 11-135 of this Code, a ticket or weigh bill shall accompany each load as provided herein, and shall bear the name of the public weigher, or, if weighed on scales designated by the city, shall bear the name of the owner of such scales and the name or initials of the weigher. This section shall not apply to interstate shipments accompanied by certificates as provided in section 11-133 of this Code.

(Code 1986, § 11-136)

Sec. 11-137. Delivery ticket to be produced on demand; verification of weight of load.

When any person has sold, or agreed to deliver coal or coke in the city, if while such coal or coke is being delivered the sealer of weights and measures or his deputy or any police officer, either on complaint by an interested citizen or at his own discretion, demands the production of the bill of lading or delivery ticket accompanying the load, the agent or employee in charge of such vehicle shall immediately produce, exhibit and allow inspection of such bill of lading or delivery ticket. When any such officer of the city demands that the weight of coal or coke being delivered as shown on such bill of lading or delivery ticket be verified, the delivering party or his agent or employee in control of such load shall convey the same immediately to the public scales where gross weight may be obtained thereon, and on delivery of such load the vehicle be returned direct to the public scales and the tare weight of such conveyance ascertained by the net weight man on duty who shall then determine the net weight of the coal or coke so delivered; provided that, the transporting agent in charge of such conveyance shall be permitted to communicate with his principal if he so desires and the principal's presence shall be permitted at the weighing of the load and the conveyance on the public scales when verification of weights are made if the principal so desires; and provided further, that there shall be no charge for use of the public scales for verification of weights as provided in this section.

(Code 1986, § 11-137)

Sec. 11-138. Inspection fee on vehicles; certificate to be issued and carried.

There is hereby levied an annual inspection fee of twelve dollars and fifty cents (\$12.50) on each vehicle using the streets of the city for the delivery of coal or coke, which shall be paid in advance by the owner of such vehicle. Such fee shall be paid to the city finance officer, who shall issue a receipt therefor and a certificate giving the name of the owner, the make of the vehicle and the license number thereof. Such certificate shall at all times be carried in the cab of such vehicle or on the person in charge of such vehicle when the same is using the streets of the city.

(Code 1986, § 11-138; Ord. No. 9654, § 8, 1-6-92)

Sec. 11-139. Weighing fees.

A minimum fee of twenty-five cents (\$0.25) shall be charged on all vehicles weighed on the public scales of the city, except in cases where such weighing is ordered for verification as provided in section 11-137 of this Code.
(Code 1986, § 11-139)

Sec. 11-140. No discrimination to be shown by retail dealers.

Any person licensed as a retail coal dealer in the city shall supply without discrimination and to the extent of his supply of coal any persons applying for coal and tendering payment therefor in cash.
(Code 1986, § 11-140)

Secs. 11-141 -- 11-155. Reserved.

ARTICLE V. FILLING STATIONS³

Sec. 11-156. Compliance with article.

No gasoline filling station in the city shall be constructed nor existing filling stations reconstructed or structurally altered without complying with the provisions of this article.
(Code 1986, § 11-156)

Sec. 11-157. Application for permit for construction or alteration- Required.

No permit for the construction, reconstruction or alteration of gasoline filling stations shall be granted until an application has been filed in writing with the building inspector. The application shall contain the name of the applicant, the interest of the applicant in the land on which the erection, reconstruction or alteration is contemplated, and the location of the property upon which it is proposed to erect, reconstruct or alter the contemplated gasoline filling station.
(Code 1986, § 11-157)

Sec. 11-158. Same-Plans required.

The application required by section 11-157 of this Code shall be accompanied by a complete set of plans, drawn accurately to a scale of not less than one-quarter (1/4) inch to one (1) foot. On such plans there shall be drawn an accurate outline of the property, showing the location of existing sidewalks and curbs and the relative elevations of the gutter, top of curb and the sidewalk adjacent to the property. All existing fire hydrants, water shut-off boxes, storm

³ **Charter reference** -- Authority to regulate gasoline filling stations, § 2.1(55).
Cross reference -- Vehicles using sidewalks adjacent to filling stations required, § 32-5.

sewer inlets or any other structures existing in the street adjacent to the property shall be shown accurately on such plans. The proposed location of pumps, tanks and their depth below the sidewalk, buildings, wash racks, oiling pits, air hose, valves, gasoline lines from tanks to pumps, and any other equipment that the applicant proposes to install on the property shall be accurately shown and the exact distances from such structures and equipment to the street line shall be written on the plans. The location, width and materials of construction of the driveways which the applicant proposes to build from the curb line to the property and a profile showing their relation in elevation to the existing or proposed sidewalks and gutters, shall also be shown on the plans.

(Code 1986, § 11-158)

Sec. 11-159. Same-Denial; grounds.

A permit to build a gasoline filling station may be withheld where the plans accompanying the application show a variance from the requirements of sections 11-162 through 11-170. (Code 1986, § 11-159)

Sec. 11-160. Prohibited locations.

No permit shall be issued for construction of a gasoline filling station within one hundred (100) feet of the entrance of any church, school, hospital or theater.

(Code 1986, § 11-160)

Sec. 11-161. Pipelines prohibited under streets or sidewalks.

No permit shall be issued to place any pipeline under the streets and sidewalks of the city for the purpose of transferring gasoline from one point to another.

(Code 1986, § 11-161)

Sec. 11-162. Building to conform to technical ordinances.

The main building of each gasoline filling station shall be construed in accordance with this Code and other ordinances of the city relating to the construction and alteration of buildings and under the supervision of the building inspector.

(Code 1986, § 11-162)

Cross references -- Building regulations, Ch. 10; electrical regulations, Ch. 14; fire prevention regulations, Ch. 17; gas regulations, Ch. 19; housing, Ch. 21; plumbing, Ch. 27; sewers, mains and drainage, Ch. 31; subdivision regulations, App. A; zoning regulations, App. B.

Sec. 11-163. Number of driveways allowed; safety aisles.

Two (2) driveways only shall be allowed for each gasoline filling station, which shall be reviewed by the traffic engineer and city engineer before issuing a permit. In specific instances, additional driveways may be recommended to the mayor by the traffic engineer and city

engineer for the approval of the city council. Where there are two (2) or more driveways, there shall be a safety aisle between each not less than ten (10) feet in length and built up to the normal curb grade.

(Code 1986, § 11-163; Ord. No. 9654, § 82, 1-6-92)

Sec. 11-164. Maximum width of driveways.

The maximum width of any driveway shall not exceed sixty (60) feet from face to face of curb.

(Code 1986, § 11-164)

Sec. 11-165. Concrete to be used for driveways.

Concrete shall be required for the paving of all driveways.

(Code 1986, § 11-165)

Sec. 11-166. Curbing.

Driveways shall be bounded on each side by a curb with a perpendicular face varying in height from no inches at the outside of the sidewalk to six (6) inches or the height of the existing city curb, if the existing curb is more or less than six (6) inches at the curb line. At corners, the circular curb shall remain at normal curb grade, and in no event shall the curb be lowered and sidewalk ramped for a driveway. If no curb exists adjacent to the property, a curb may be built, but only on a line and grade and of the cross section and materials designated by the city engineer.

(Code 1986, § 11-166)

Sec. 11-167. Location of equipment in relation to street line.

Pumps, oil pits, air hose, wash racks and any other equipment used in the servicing of cars, if set parallel to the street line, shall not be located nearer than ten (10) feet from the street line. If this equipment is set at an angle to the street line, it shall not be located nearer than thirteen (13) feet from the street line. The established street lines shall be presumed to be properly located and shall be used as the line to which distances are measured.

(Code 1986, § 11-167)

Sec. 11-168. Alteration of sidewalk grade.

The grade of existing sidewalks may be changed only when such change is not disadvantageous to adjoining sidewalks and property, and then only upon the permission of and at a grade set by the city engineer.

(Code 1986, § 11-168)

Sec. 11-169. When sidewalks to be constructed.

If sidewalks do not exist adjacent to the property, sidewalks on the line and grade set by the city engineer may be required to be included in the construction of a station.
(Code 1986, § 11-169)

Sec. 11-170. Alterations in street drainage system.

Where driveways interfere with the street drainage system, necessitating the moving or removal of catch basins, such change shall be made only with the approval of and according to plans prepared or approved by the city engineer.
(Code 1986, § 11-170)

Secs. 11-171 -- 11-185. Reserved.

ARTICLE VI. HOTELS AND ROOMING HOUSES⁴

Sec. 11-186. Definition.

As used in this article, unless the context otherwise requires:

(1) “Consideration” means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(2) “Hotel” means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;

(3) “Occupancy” means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel;

(4) “Operator” means the person operating the hotel whether as owner, lessee or otherwise;

(5) “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit; and

(6) “Transient” means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

(Ord. No. 11303, §1, 08-06-02)

Sec. 11-187. Permit-Required.

No person shall conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, lessee, agent or attorney, any hotel in the city without having obtained a permit from the city finance officer so to do.

(Code 1986, § 11-187; Ord. No. 9654, § 8, 1-6-92)

⁴ **Charter reference** -- Authority to license and regulate hotels and rooming houses, § 2.1(47).

Cross reference -- Lighted materials prohibited in beds of hotels, etc., § 17-2.

State law references -- Hotels and places of accommodation generally, T.C.A., §§ 62-7-101 -- 62-7-

Sec. 11-188. Same-Application; preliminary investigation, recommendation.

When application for a permit required by section 11-187 of this Code is made, the applicant shall present himself in person to the chief of the police department and at such time shall present to the chief of the police department satisfactory proof of the applicant's good moral character. When application is made by or on behalf of a co-partnership, corporation or association, such application shall be made by the manager, officer, agent or other person who will have the charge and management of the hotel. The chief of the police department shall examine into and investigate the character and qualifications of applicants for permits and report to the city council through the mayor his recommendation as to whether or not a permit should be issued to an applicant.

(Code 1986, § 11-188; Ord. No. 9654, § 83, 1-6-92)

Sec. 11-189. Same-Applicant to be of good moral character.

No permit required by section 11-187 of this Code shall be issued to any person to conduct a hotel in the city unless such person is of ascertained good moral character.

(Code 1986, § 11-189)

Sec. 11-190. Same-Fee.

The fee for each hotel permit shall be twenty-five dollars (\$25-00).

(Code 1986, § 11-190)

Sec. 11-191. Same-Display.

Every person to whom a permit is issued under this article shall display such permit in a conspicuous place in the office of the hotel operated thereunder.

(Code 1986, § 11-191)

Sec. 11-192. Same-Not transferable.

No permit issued under this article shall be transferred or assigned.

(Code 1986, § 11-192)

Sec. 11-193. Same-Revocation.

The mayor may revoke any permit issued under this article for violation of any provision hereof or for good cause shown. Before any permit is revoked, the holder thereof shall be notified and shall have a hearing before the mayor if he so desires.

(Code 1986, § 11-193; Ord. No. 9654, § 84, 1-6-92)

Sec. 11-194. Same-Duration.

Hotel permits shall be issued annually and shall expire on the last day of December of each year.

(Code 1986, § 11-194)

Sec. 11-195. Using hotel for purpose of prostitution.

No person to whom a permit is issued under this article shall suffer or permit the hotel operated thereunder to be used as a house of ill fame, brothel, bawdy house or disorderly house, for the purpose of prostitution.

(Code 1986, § 11-195)

Sec. 11-196. Register required; availability for inspection.

Every person to whom a permit is issued under this article shall at all times keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms in his hotel. Such register shall be signed in every case by the person renting a room or by someone under his direction, and after registration is made and the name of a guest is inscribed as herein provided, the manager of the hotel or his agent shall write the number of the room which such guest is to occupy, together with the time such room is rented, before such person is permitted to occupy such room. The register shall be open to inspection at all times by any guest of the hotel and by any executive or peace officer of the city or state.

(Code 1986, § 11-196)

Sec. 11-197. Rooms to be numbered.

Each sleeping room and apartment in every hotel in the city shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number.

(Code 1986, § 11-197)

Sec. 11-198. Right of city officers to enter.

Any officer of the city may enter into and upon the premises of any hotel in the city, for the purpose of inspection, at any reasonable hour.

(Code 1986, § 11-198)

Sec. 11-199. Liability of manager for violations.

Where a permit has been issued to any co-partnership, corporation or association to conduct a hotel in the city, any person having charge, management or control of such hotel shall be liable to prosecution for any violation of this chapter. For the purpose of determining the liability of any person to prosecution for such violations, it shall be sufficient to show that such

person was, at the time of the act of violation complained of, the person in actual charge, management or control of the hotel in which such act is alleged to have been committed.
(Code 1986, § 11-199)

Sec. 11-200. Privilege tax levied; use.

(a) Pursuant to the provisions of T.C.A. §67-4-1401 through T.C.A. §67-4-1425, there be and is hereby levied a privilege tax upon the privilege of occupancy in any hotel of each transient. From and after the operative date of this Ordinance and through the 30th day of September, 2003, the rate of the levy shall be two percent (2%) of the consideration charged by the operator. From the 1st day of October, 2003, through the 30th day of April, 2005, the rate of the levy shall be three percent (3%) of the consideration charged by the operator. Thereafter, the rate of the levy shall be four percent (4%) of the consideration charged by the operator. This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The City Treasurer is designated as the authorized collector to administer and enforce this ordinance and these statutory provisions.

(b) The proceeds received from this tax shall be designated for the development and implementation of public improvements in the downtown area and waterfront area necessary to implement the 21st Century Waterfront Plan, which may include parking facilities. The privilege

taxes collected shall be placed in a special account to be used only for these purposes.
(Ord. No. 11303, §2, 08-06-02)

Sec. 11-201. Mayor authorized to contract.

The mayor of the city is hereby authorized to execute agreements with non-profit charitable organizations or interlocal agreements with governmental agencies to plan for and implement the provisions of the 21st Century Waterfront Plan subject to all financial obligations being otherwise authorized as provided by law.
(Ord. No. 11303, §2, 08-06-02)

Secs. 11-202 -- 11-215. Reserved.

ARTICLE VII. JUNK AND SECONDHAND DEALERS⁵

Sec. 11-216. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Junk dealer. Any person engaged in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in rags, paper, scrap iron, brass or secondhand metals of any sort or any other substance or material or article, which, from its worn condition, is rendered practically useless for the purpose for which it was made and which is commonly classed as junk.

Junkyard or junk shop. Any building, structure, yard or place which is used for keeping, storing or piling in commercial quantities, whether temporarily or continuously, or for buying or selling, at retail or wholesale, or dealing in the articles, substances and materials enumerated in the preceding paragraph.

Secondhand dealer. Any person engaged in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in secondhand jewelry, typewriters, adding machines and other like articles, wearing apparel and other secondhand goods, wares or merchandise.

Secondhand motor vehicle dealer. Any person engaged in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in secondhand motor vehicles. (Code 1986, § 11-216)

Cross reference -- Definitions and rules of construction generally, § 1-2.

Sec. 11-217. Exception for secondhand furniture.

The provisions of this article shall not apply to the purchase of secondhand household furniture. (Code 1986, § 11-217)

Sec. 11-218. Records of purchases required.

(a) Every secondhand dealer, secondhand motor vehicle dealer and junk dealer shall keep and carefully preserve a book or register, in which shall be legibly written in ink or typed in the English language at the time of each purchase or receipt of secondhand articles, substances or materials, an accurate account and description of the article, substance or material purchased

⁵ **Cross reference --** Garbage and refuse, Ch. 18.

State law references -- Junk dealers regulated, T.C.A. §§ 62-9-101 -- 62-9-106; secondhand dealers in automobile tires and accessories, T.C.A. §§ 55-14-101 -- 55-14-107.

or received, the amount paid therefor, the date and time (both day and hour) of such purchase or receipt, and the name, residence and description of the person selling or delivering such article.

(b) Secondhand motor vehicle dealers shall give an accurate account and description of the vehicle purchased or received, including the motor, serial and manufacturer's number.

(c) No entry made in such book or register shall be erased, obliterated or defaced.
(Code 1986, § 11-218)

Sec. 11-219. Daily report to police.

(a) Each secondhand dealer and secondhand motor vehicle dealer shall deliver to the chief of police daily, except on Sunday, before the hour of 10:00 a.m., a correct copy of all entries made in the book or register kept by him during the preceding business day.

(b) Any person purchasing vehicle hubcaps, mirrors, fenders, skirts, ornaments, tires or other parts or vehicle accessories from individuals not engaged in the lawful business of selling auto parts and equipment shall make daily reports of all such purchases to the chief of police before the hour of 10:00 a.m., except on Sunday, giving the name, age and address of the seller and any proof of ownership furnished to the purchaser by the seller.

(Code 1986, § 11-219)

Cross reference -- Fire department generally, § 16-26 et seq.

Sec. 11-220. Police may inspect records, articles purchased.

The book or register kept by every secondhand dealer, secondhand motor vehicle dealer and junk dealer, as well as the articles, substances or materials purchased, shall, at all reasonable times, be open to the inspection of any police officer.

(Code 1986, § 11-220)

Cross reference -- Police department, § 16-26 et seq.

Sec. 11-221. Identification of person from whom purchases made.

If a secondhand dealer or secondhand motor vehicle dealer does not know the person offering to sell or deliver any article or vehicle, he shall make inquiry to learn the true identity of such person, and shall require the production of his draft registration card, if any, and his social security card, if any, and shall note in his book or register the draft board with which such person is registered, his address and social security number, and any other information he obtained as to the identity of such person. This information shall be kept in addition to the description required by the provisions of section 11-218.

(Code 1986, § 11-221)

Sec. 11-222. Business hours of secondhand dealers.

No secondhand dealer shall keep open his place of business before 7:00 a.m. or after 6:00 p.m. of any day during the year; provided that, on Saturday of each week and the last fifteen (15) days of December of each year it shall be lawful for secondhand dealers to keep open until 9:00 p.m.

(Code 1986, § 11-222)

Sec. 11-223. Notice to police of intended purchase from minor, drinker, thief or ex-convict.

No secondhand dealer or secondhand motor vehicle dealer shall purchase any article or vehicle from any person under sixteen (16) years of age or from any person appearing to be intoxicated or known as an habitual drunkard, or to be a thief, or to have been convicted of larceny, burglary, robbery or housebreaking, without first notifying a police officer.

(Code 1986, § 11-223)

Cross reference -- Alcoholic beverages, Ch. 5.

Sec. 11-224. Permit for sale or exchange of metallic fixtures or junk-Required.

It shall be unlawful for any person, except licensed junk dealers, to sell, barter or exchange any plumbing fixtures, electrical fixtures, mechanical fixtures or water or gas fixtures made of brass or other metallic material or any junk consisting of any metal to any junk dealer, without having procured from the city treasurer a permit in writing authorizing such transaction.

(Code 1986, § 11-224)

Sec. 11-225. Same-Exhibition at time of delivery; records of dealer.

It shall be unlawful for any junk dealer to purchase or receive from any person any of the materials enumerated in section 11-224 without requesting and having exhibited to him the permit required by such section, signed by the city treasurer and authorizing the person selling such materials to make the specific sale thereof at that time. The junk dealer shall record in his book or register the date of the permit. Such information shall be kept in addition to the information required by section 11-218 of this chapter.

(Code 1986, § 11-225)

Sec. 11-226. Same-Issuance.

It shall be the duty of the city treasurer to issue, upon application of any person, a permit free of charge for the purpose of making a specific sale of metallic junk, provided the application of such person is approved in writing by the chief of police. No such permit shall be construed to authorize its holder to engage in junk dealing without paying the privilege tax and securing the license therefor.

(Code 1986, § 11-226)

Sec. 11-227. Certificate of occupancy required for junkyard or shop.

No junkyard or junk shop shall be established or opened on any lot or yard or in any building in the city without a certificate of occupancy. Application for such certificate shall be made to the building inspector, who shall not issue any such certificate until such application has been presented to the city council at a regular meeting, and the issuance of such certificate has been authorized by a majority vote of the city council. The action of the city council shall be noted on its minutes.

(Code 1986, § 11-227; Ord. No. 9654, § 2, 1-6-92)

Sec. 11-228. Junkyards, shops to be fenced in.

Every junkyard or shop shall be enclosed by a substantial board fence not less than eight (8) feet in height which shall be kept well painted by the owner of such establishment. Such fence shall be so constructed and set back as not to interfere with traffic or obstruct the view of persons using the street on which they are located, and shall comply with the provisions of section 32-34 of this Code.

(Code 1986, § 11-228)

Secs. 11-229 -- 11-240. Reserved.

ARTICLE VIII. PAWNBROKERS

Sec. 11-241. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Detailed description" means a written description of an item giving the weight in grams, carats or druid weight as applicable, shape, size in inches or millimeters, any inscription on the item, type (including color) of metal, and type of precious stone if applicable.

"Pawn" or "Pawn Transaction" means either of the following transactions:

(a) *"Buy-Sell Agreement"* means any Agreement whereby a pawnbroker agrees to hold a property (Pledged Goods) for a specified period of time not to be less than sixty (60) days to allow the Seller the exclusive right to repurchase the property. A Buy-Sell Agreement is not a loan of money, but shall still meet all recording procedures to law enforcement officers as with a Pawn Transaction; or

(b) A *"Loan of Money"* transaction means any loan on the security of Pledged Goods and being a written bailment of Pledged Goods as a security lien for such loan, for the

cash advanced, interest and fees authorized by this Act, redeemable on certain terms and with the implied power of sale on default.

"Pawnbroker" means any person, partnership or corporation engaged in the business of lending money on the security of Pledged Goods; or engaged in the business of purchasing tangible personal property on condition that it may be redeemed and repurchased by the Seller for a fixed price within a fixed period of time; or engaged in the business of advancing money to a customer in consideration for the customer surrendering possession of tangible personal property on an agreement by which the property may be returned to the customer's possession on repayment of the money advanced; and engaged in the business of selling new and used tangible personal property, whether unredeemed tangible personal property resulting from a Pawn Transaction, or acquired by a purchase of tangible personal property not acquired in a Pawn Transaction, or purchased merchandise for resale from dealers and traders.

"Pawnshop" means the location at which or premises in which a pawnbroker regularly conducts business.

"Pledged Goods" means tangible personal property, other than choses in action, securities, printed evidences of indebtedness, or title documents, which tangible personal property is purchased by, deposited with, or otherwise actually delivered into the possession of a Pawnbroker in connection with a Pawn Transaction, and shall include the term "Pawn" or "Pledged Property" or similar words.

"Pledgor" means the pawn loan customer of the Pawnbroker, entering into a pawn Transaction with the Pawnbroker.
(Ord. No. 10912, § 1, 9-28-99)

Sec. 11-242. License required.

It shall be unlawful for any person to engage in business as a pawnbroker, to operate a pawnshop or to engage in any activity subject to regulation by this article without first obtaining a valid license from the State of Tennessee. All persons engaged in activities subject to regulation by this article shall have their license clearly displayed and open for inspection by the Chattanooga Police Department.
(Ord. No. 10912, § 1, 9-28-99)

Sec. 11-243. Signs.

Each pawnbroker shall cause the words "Licensed Pawnbroker" to be printed or painted in large, legible characters and placed over the outside of the entrance for customers to such pawnbroker's shop, office or place of business. The pawnshop may also be called by a business name other than the name of the licensee.
(Ord. No. 10912, § 1, 9-28-99)

Sec. 11-244. Prohibited acts.

A pawnbroker shall not:

- (1) Accept a pledge or purchase property from a person under eighteen (18) years of age, nor accept a pledge from anyone who appears intoxicated, nor from any person known to such pawnbroker to be a thief, or to have been convicted of larceny, burglary or robbery, without first notifying a police officer;
- (2) Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction;
- (3) Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under this part;
- (4) Fail to exercise reasonable care to protect pledged goods from loss or damage;
- (5) Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. In the event such pledged goods are lost or damaged while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with like kind(s) of merchandise. In the event the pledgor and pawnbroker cannot agree as to replacement with the like kind(s), the pawnbroker shall reimburse the pledgor for the agreed upon value of the article as recited under T.C.A. § 45-6-209(b)(4);
- (6) Purchase property in a pawn transaction for such pawnbroker's own personal use;
- (7) Take any article in pawn, pledge, or as security or under a buy-sell agreement from any person, which article is known to such pawnbroker to be stolen;
- (8) Sell, exchange, barter, or remove from their place of business, or permit to be redeemed any goods pledged, pawned, or disposed of by them for a period of forty-eight (48) hours after making the report as provided in T.C.A. § 45-6-209;
- (9) Keep more than one (1) house, shop, or place for such business of pawnbroker under one (1) license; provided, that such person may remove from one (1) place of business to another, as provided in T.C.A. § 45-6-208;
- (10) Enter into any pawn transaction which has a maturity date less than thirty (30) days after the date of the pawn transaction;
- (11) Make a pawn or loan on precious metal without providing a detailed description of the type and weight of precious metal such as gold or silver that is, pawned; or

(12) Make a pawn or purchase of an item with an apparently altered or removed serial number.

(Ord. No. 10912, § 1, 9-28-99)

Sec. 11-245. Suppliers' names.

Upon request from any law enforcement agency, whether city, county, or state, a pawnbroker shall furnish the names of all suppliers from whom the pawnbroker has purchased merchandise for resale. This information is not to be recorded nor sent to any law enforcement agency but shall be maintained at the pawnshop for a period of at least one (1) year from the date of purchase.

(Ord. No. 10912, § 1, 9-28-99)

Sec. 11-246. Records and record inspection by police.

(a) Every pawnbroker shall keep a consecutively numbered record of each and every pawn transaction which shall correspond in all essential particulars to the detachable pawn ticket attached. The consecutive numbering process for pawnbroker transactions dealing with over-the-counter purchases, described above, shall be numbered and identified independently from a buy-sell agreement and/or a loan of money transaction.

(b) The pawnbroker shall, at the time of making the pawn transaction and/or buy-sell transaction, enter upon the pawnshop copy of the records as well as on the pawn ticket, and/or buy-sell ticket, the following information, which shall be typed or written in ink and in the English language:

- (1) A clear and accurate description of the property, including serial numbers if pledged articles shall bear such;
- (2) The date of the pawn transaction;
- (3) The amount of cash loan advanced on the pawn transaction;
- (4) The exact value of the property as stated by pledgor who pledges same;
- (5) The maturity date of the pawn transaction, which date shall not be less than thirty (30) days after the date of the pawn transaction; and
- (6) The name, race, sex, height, weight, date of birth, residence address of the person making the pawn. A pawnbroker shall require the person making the pawn to produce identification before the pawn transaction is completed. The pawnbroker shall record the numbers from any item or items used as identification by a pledgor. The following items may be used as identification:

- (A) A state-issued driver's license;
- (B) A state-issued identification card;
- (C) A passport;
- (D) A valid military identification;
- (E) A non-resident alien border crossing card;
- (F) A resident alien border crossing card; or
- (G) A United States immigration and naturalization service identification.

(c) The pledgor shall sign the stub providing the pledgor's residence address and shall receive the detached pawn ticket; the stub shall also be signed by the pawnbroker or the pawnbroker's agent.

(d) A pawnbroker shall obtain and record the name, race, sex, height, date of birth, residence address and numbers from the items used as identification. The acceptable items of identification set forth above are acceptable for the purposes of this part.

(e) If the person retrieving a pawned item is different than the original pledgor, a pawnbroker shall obtain and record the name, race, sex, height, date of birth and residence address of the person retrieving the pawned item(s). Any person retrieving a pawned item shall be required to produce identification that conforms to the requirements of subsection (b)(6) above.

(f) These records shall be delivered to the Police Department by mail or in person, within forty-eight (48) hours following the day of such transactions. Delivery by mail shall be deemed made when deposited in the United States mail, postage prepaid. Further, these records shall be made available for inspection each business day, except Sunday, by the Police Department.

(g) These records shall be a correct copy of the entries made of the pawn transactions and/or buy-sell transactions and shall be carefully preserved without alteration and shall be available during regular business hours for inspection by the Police Department.
(Code 1986, § 11-243; Ord. No. 10912, § 1, 9-28-99)

Sec. 11-247. Newly acquired goods to be kept separate; pawn ticket or other identification to be kept with pawned item until sold or disposed of.

A pawnbroker shall keep any article pawned or sold separate and apart from other goods or articles for a period of forty-eight (48) hours after receipt of same. Until a pawned item is sold or otherwise disposed of by the pawnbroker, a pawnbroker shall keep with each item

pawned the pawnbroker's copy of the pawn ticket or some other identification which will enable any police officer to match a pawned item for sale in the pawnshop to the pawn ticket associated with the pawn transaction pursuant to which the pawnbroker acquired such pawned item. (Code 1986, § 11-245; Ord. No. 10912, § 1, 9-28-99)

Sec. 11-248. How long articles must be kept before disposal.

(a) It shall be unlawful for any pawnbroker to deliver to the person who pawned, pledged, sold or delivered the same, any goods, article or thing, or to deliver the same to any other person or to sell or otherwise dispose of the same, for a period of forty-eight (48) hours from making the report required by this article, or for an additional period of forty-eight (48) hours if requested by a police officer to retain the same.

(b) Any pawnbroker who makes an over-the-counter purchase of goods that the seller does not intend to buy back as contemplated by 11-246(a)(7) shall hold said goods for a period of not less than twenty (20) days before offering the merchandise for sale. (Code 1986, § 11-246; Ord. No. 10912, § 1, 9-28-99)

Sec. 11-249. Return of stolen property.

(a) Any person asserting ownership of any property, which the person alleges is stolen and which is in the possession of a pawnbroker, may recover such property by making a report to any law enforcement agency of the location of such property and providing the law enforcement agency with proof of ownership of the property, provided, that a report of the theft of the property was made to the proper authorities within thirty (30) days after obtaining knowledge of the theft or loss; and, provided further, that the person asserting ownership will assist in the prosecution of the party pawning such item. Upon the receipt of such proof of ownership, any law enforcement officer is authorized to recover the property from the pawnbroker, without expense to the rightful owner thereof, unless the pawnbroker presents evidence of having received proof of ownership of such property by the person who sold same to pawnbroker or pledged the property as security for a loan. Any property recovered from a pawnbroker, pursuant to this section, shall be returned to the rightful owner thereof, subject to evidence in any criminal proceeding. All pawnbrokers shall keep in their records for a period not less than one (1) year a tracking number assigned by the Police Department for each item of stolen property recovered from the pawnbroker; the pawnbroker shall write said tracking number on the pawn ticket for said transaction or shall otherwise keep the tracking number with readily available records of the pawn transaction.

(b) The Police Department shall furnish to the pawnbroker from whom stolen property has been recovered the complaint number assigned to the case. (Code 1986, § 11-248; Ord. No. 10912, § 1, 9-28-99)

Sec. 11-250. Business hours.

Pawnshops shall not open for business before eight o'clock a.m. (8:00 a.m.) or after six o'clock p.m. (6:00 p.m.) of any day during the year except for the period from November 25 through December 24 of each year during which time pawnshops may open at eight o'clock a.m. (8:00 a.m.) and may remain open until nine o'clock p.m. (9:00 p.m.). Pawnshops shall be closed all day on Sunday throughout the year provided that on Sundays from November 25 through December 24 each year pawnshops may open at 12:01 p.m. and may remain open until nine o'clock p.m. (9:00 p.m.), provided further that such Sunday business shall be for the purpose of retail sales only and no pawn transactions may be entered into or completed.
(Code 1986, § 11-250; Ord. No. 10912, § 1, 9-28-99)

Secs. 11-251 -- 11-280. Reserved.

ARTICLE IX. TRANSIENT MERCHANTS

Sec. 11-281. Definition.

A "transient merchant," within the meaning of this article, is defined as one who engages temporarily in the vending or sale of merchandise at any place in the city and who does not intend to become and does not become a permanent merchant at such place, and who, for the purpose of carrying on such business, hires, leases or occupies, either in whole or in part, a room, building or other structure for the exhibition and sale of such goods, wares and merchandise.

(Code 1986, § 11-281)

Cross reference -- Definitions and rules of construction generally, § 1-2.

Sec. 11-282. Exceptions.

The provisions of this article shall not apply to any sale, act or thing the regulation or licensing of which would constitute regulation or licensing of interstate commerce, nor shall the provisions of this article apply to any sale, act or thing legally regulated by the constitution or any law of the United States.

(Code 1986, § 11-282)

Sec. 11-283. License required.

Every transient merchant, whether principal or agent, before beginning business in the city shall take out a city license in the manner provided in this article. No such merchant shall expose for sale or sell at public or private sale any goods, wares or merchandise in the city until he has secured the license required in this section.

(Code 1986, § 11-283)

Sec. 11-284. License application required.

Any person desiring a transient merchant's license shall make written application to the city treasurer therefor, stating the nature of his business and how long he may be engaged therein in the city.

(Code 1986, § 11-284)

Sec. 11-285. False statements on applications.

No transient merchant or applicant for a transient merchant's license shall file any application, original or supplementary, which contains any false statement.

(Code 1986, § 11-285)

Sec. 11-286. License fee, issuance.

Upon the payment of a fee of twenty dollars (\$20.00) per day for each day he may be engaged in carrying on his business in the city, the city treasurer shall issue to the applicant a transient merchant's license authorizing him to do business in the city for the length of time stated in his application.

(Code 1986, § 11-286)

Sec. 11-287. Supplementary license.

Every transient merchant desiring to carry on his business for a longer time than that stated in the license issued to him by the city treasurer shall make a supplementary application and payment as provided in this article before continuing to carry on his business and the city finance officer shall issue to him a supplementary license in accordance with the terms of his application.

(Code 1986, § 11-287)

Sec. 11-288. License prerequisite to advertisement of sale.

No person shall advertise any sale by a transient merchant in the city, whether by circular, handbill or newspaper, or in any other manner, until the license required in this article has been issued to such merchant.

(Code 1986, § 11-288)

Sec. 11-289. License revocation.

Any license issued under this article may be revoked by the city treasurer upon the conviction of the licensee of any fraud or false representation, misrepresentation or imposition in the sale of goods, wares or merchandise, or the sale of any adulterated food, drink or drug, or the sale of any food deleterious to health. The filing with the city treasurer of a certified copy of the final judgment of conviction of a licensee of any such offense by the court in which the licensee was tried shall be sufficient authority for the revocation of such license.

(Code 1986, § 11-289)

Sec. 11-290. When bond required to secure payment of license.

If complaint is made to the mayor that any person doing business in the city is a transient merchant, and the person complained of claims to be a permanent merchant, such person may be required, as a condition of transacting business in the city without securing the license and paying the fees provided in this chapter, to give a bond payable to the city to secure the payment of such fees and the fees for the license required by state law if such person fails to become a permanent merchant of the city, in a penal sum not to exceed one thousand dollars (\$1,000.00) with sureties to be approved by the city treasurer. Such bond shall be enforced, in the event of a breach thereof, by the city attorney, and upon collection thereof, the amount of the state license fee shall be paid to the state treasurer, and the remainder shall be paid into the city treasury. (Code 1986, § 11-290)

Secs. 11-291. Vehicles.

The use of a large truck(s), trailer(s), or other motor vehicle(s) having three or more axles or with a gross vehicle weight rate (G.V.W.R.) greater than fourteen thousand nine hundred (14,900) pounds in a residential district on either a street right-of-way or on private property for use by licensed transient merchants during the normal course of business shall be prohibited. For exceptions, definitions and/or conditions see City Code Chapter 24 section 305 (24-305). (Ord. No. 12104, 04-01-08)

Secs. 11-292 -- 11-305. Reserved.

ARTICLE X. MASSAGE TECHNICIANS AND PARLORS⁶

Sec. 11-306. Definitions.

For purposes of this article the following phrases and words shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning:

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.

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

⁶ **Cross reference --** Using hotel for purpose of prostitution prohibited, § 11-195.

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.

Massage technician. Any person who administers a massage to another at a massage parlor.

(Code 1986, § 11-306)

Cross reference -- Definitions and rules of construction generally, § 1-2.

Sec. 11-307. 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 article or any prior ordinance.

(Code 1986, § 11-307)

Sec. 11-308. Same-Application; renewals; fees.

(a) Any person desiring a massage parlor permit to establish, maintain or operate a massage parlor in the city shall make application to the city treasurer. Each massage parlor permit application shall be accompanied by an investigation fee of fifty dollars (\$50.00), payable to the city treasurer. Each massage parlor permit shall expire one year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of twenty-five dollars (\$25.00). 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.

(b) 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 on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this article, or on a charge of violating a similar law or ordinance in any other jurisdiction.

(c) 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."

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

(e) 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.

(Code 1986, § 11-308)

Sec. 11-309. Same-Investigation of applicant; grounds for denial of application.

(a) Upon receipt of the application and fee as provided for in section 11-308 of this Code, the city treasurer 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 to the city treasurer within thirty (30) days of the request.

(b) The city treasurer shall deny any application for a massage parlor permit under this article after notice and hearing if the city treasurer finds that 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 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 article, 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 treasurer 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.

(Code 1986, § 11-309)

Sec. 11-310. Same-Investigation of premises and issuance.

The city treasurer, before issuing any massage parlor permit, shall cause an investigation to be made of the premises named and described in the application for a massage parlor permit under this article for the purpose of determining whether the massage parlor complies with the provisions of this article, 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 official to make or cause to be made a thorough investigation of the premises and the result of this investigation and whether such premises comply with the zoning, building, fire, plumbing and electrical codes, shall be submitted to the city treasurer within thirty (30) days of the request.

(Code 1986, § 11-310)

Sec. 11-311. 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.

(Code 1986, § 11-311)

Sec. 11-312. Same-Revocation; grounds; notice to permittee.

(a) *Power generally.* The city treasurer 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.

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

- (1) 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) has within a period of two (2) years been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provisions of this article or on a charge of violating a similar law or ordinance of this or any other jurisdiction.
- (2) Discovery by the city treasurer of a false statement on the application.
- (3) Upon evidence presented before the city treasurer 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) has within a period of one (1) year violated any provisions of this article or any other ordinance of the city or laws of the state relating to sexual offenses, prostitution, obscenity, or other similar offenses.
- (4) Upon evidence presented before the city treasurer 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 article or violated any other ordinance of the city or laws of the state relating to sexual offenses, prostitution, obscenity or similar offenses.

(c) *Notice of hearing.* Notice of hearing before the city treasurer 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.

(Code 1986, § 11-312)

Sec. 11-313. 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 article or any prior ordinance.

(Code 1986, § 11-313)

Sec. 11-314. Same-Application; renewal; fees.

(a) 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 treasurer, 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 include a sworn statement as to whether or not 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 article, or on a charge of violating a similar law or ordinance in any other jurisdiction.

(b) 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."

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

(d) 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.

(e) Each massage technician permit shall expire one year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of ten dollars (\$10.00). (Code 1986, § 11-314)

Sec. 11-315. Same-Investigation of applicant; grounds for denial of application.

(a) Upon receipt of the application and fee as provided for in section 11-314 of this Code, the city treasurer 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 treasurer within thirty (30) days of the request.

(b) The city treasurer shall deny any application for a massage technician permit under this article after notice and hearing, if the city treasurer finds that the applicant has within a period of two (2) years prior to his application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution,

obscenity, etc., or any provision of this article, 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 treasurer 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.
(Code 1986, § 11-315)

Sec. 11-316. 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.
(Code 1986, § 11-316)

Sec. 11-317. Same-Revocation; grounds; notice to permittee.

Any massage technician permit granted under this article shall be revoked by the city treasurer 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 article, 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 treasurer for 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.
(Code 1986, § 11-317)

Sec. 11-318. Suspension of permits; reinstatement.

If the chief of police or the city treasurer, 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 article, or the permittee has refused the chief of police, the city treasurer, or their duly authorized representatives the right to enter the premises to enforce the provisions of this article, upon report to the city treasurer he may enter an 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 treasurer shall reinstate a suspended permit when he has been satisfied that the massage parlor or massage technician complies with the applicable provisions of this article.

(Code 1986, § 11-318)

Sec. 11-319. Appeals from permit denials, suspensions or revocations.

Any applicant or permittee aggrieved by the actions of the city treasurer in the denial of an application for a massage parlor permit or massage technician permit, or by the decision of the city treasurer with reference to the revocation or suspension of a massage establishment permit or massage technician permit, shall have the right of appeal to the city council. Such appeal shall be taken by filing with the city treasurer, within ten (10) days after the action complained of has been taken, a written statement setting forth fully the grounds for appeal. The city treasurer shall forthwith notify the city council, which shall schedule a public hearing and shall give notice of such hearing to the appellant. The city council may reverse or affirm or may modify any decision of the city treasurer, 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 council on such appeal shall be final and conclusive. (Code 1986, § 11-319; Ord. No. 9654, § 2, 1-6-92)

Sec. 11-320. 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 article or any prior ordinance. (Code 1986, § 11-320)

Sec. 11-321. Examination of massage technicians; issuance of public health card.

(a) All persons who desire to perform the services of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest X-ray which is to be made and interpreted by a trained radiologist, and shall furnish a certificate based upon and issued within thirty (30) days of such examination by the Chattanooga-Hamilton County health department and stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the city treasurer the certificate required herein within five (5) days of the commencement of their employment and at least once every six (6) months thereafter.

(b) When there is cause to believe that the massage technician is capable of communicating any contagious disease to others, the city treasurer may at any time require an immediate physical examination of any such person.

(c) 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 treasurer, or their duly authorized representative at all reasonable times.
(Code 1986, § 11-321)

Sec. 11-322. Right of entry.

The chief of police or the city treasurer or their duly authorized representatives are hereby authorized to enter, examine and survey any premises in the city for which a massage parlor permit has been issued pursuant to this article to enforce the provisions of this article, and for no other purpose. Should the authority to inspect premises be delegated to another person, such person shall be provided with written delegation of authority to be shown to the permittee upon request at the time of inspection. If such inspection reveals conditions which in the opinion of the inspector warrants a more thorough inspection by the building official, the Chattanooga-Hamilton County health department, the bureau of fire prevention, or similar person or agency charged with responsibility for the enforcement of particular health and safety ordinances or laws of the city or the state, he shall report such condition to such person or agency and request that such premises be examined and any findings be reported to the chief of police and the city treasurer. This section shall not be deemed to restrict or to limit the right of entry otherwise vested in any law enforcement officers or other employees of the city or the state charged with the enforcement of health and safety or criminal laws wherein such right of entry is vested by other ordinances or laws.
(Code 1986, § 11-322)

Sec. 11-323. 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 article.
- (Code 1986, § 11-323)

Sec. 11-324. 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 patron.
- (Code 1986, § 11-324)

Sec. 11-325. Unlawful acts.

(a) 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.

(b) 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.

(c) 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.

(d) It shall be unlawful for any person owning, operating or managing a massage 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 article.

(e) 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.

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

(g) 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.

(h) The administering of massages 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.

(i) It shall be unlawful for any person in a massage parlor to administer a massage to a person of the opposite sex.

(Code 1986, § 11-325)

Sec. 11-326. Penalty.

Any person violating any of the provisions of this article, upon conviction by the court, shall be imprisoned for not less than fifteen (15) days nor more than thirty (30) days, and shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), for each violation, and each day of violation of any provision of this article shall constitute a separate offense.

(Code 1986, § 11-326)

Sec. 11-327 -- 11-340. Reserved.

ARTICLE XI. PROFESSIONAL FUND SOLICITORS⁷

Sec. 11-341. Short title; applicability of article; compliance.

(a) This article shall be known as the "professional solicitation ordinance" and shall apply to all fund-raising campaigns in which solicitations are made in the city or from its residents by professional fund solicitors (as defined herein) who are acting or purporting to act on behalf of charitable, nonprofit, religious, patriotic, educational or philanthropic organizations, or for such purposes.

(b) It shall be unlawful for any person to solicit contributions in any public or private place within the city for a professional solicitation campaign governed by this article unless the sponsoring individual, group or organization has been issued a permit under the provisions of this article to conduct such a professional solicitation campaign, and it shall be further unlawful for any person to solicit for any contribution following the expiration or the revocation by the mayor or his designee of such permit.

(Code 1986, § 11-341; Ord. No. 9654, § 85, 1-6-92)

Sec. 11-342. Definitions.

As used in this article, the following terms shall have the meanings hereinafter set forth:

Mayor. As used in this article, "mayor" shall mean the mayor or his designee.

Professional fund solicitor. As used in this article, the term "professional fund solicitor" shall be any person, group or organization holding itself or themselves out for employment or employees specifically for the solicitation of funds from other persons, groups or organizations, or to advise upon, organize or direct such a campaign, for monetary remuneration, whether said remuneration be in the form of salaries, commissions, a percentage of funds collected, or subsistence for food and shelter, travel expense, or any combination of these, or otherwise. This term shall also include purveyors of goods or services for monetary remuneration (whether as salaries, commissions or profits) and purportedly acting on behalf of charitable, nonprofit, religious, patriotic, educational or philanthropic groups or organizations.

Professional solicitation campaign. As used in this article, the term "professional solicitation campaign" shall refer to any campaign or drive to solicit funds (whether through the solicitation of outright contributions or through the sale of goods, sale of advertisements, sale of

⁷ **Editor's note** -- Ordinance No. 8661, enacted July 1, 1986, did not specifically amend this Code; hence, codification of provisions designated therein as §§ 12-244 -- 12-254 as §§ 11-341 -- 11-351 of this Code was at the discretion of the editor.

services, lotteries, or any combination of solicitation methods) which is intended to, or does in fact, in any way depend upon the services of professional fund solicitors specifically engaged by the sponsoring individual, group or organization for the purpose of making solicitations or the sale of goods or services, or of changes in connection with said campaign or to advise upon, organize or direct such a campaign to any extent whatever. Involvement by administrative staff personnel, even though salaried, in fund-raising drives for charitable, nonprofit, religious, patriotic, educational or philanthropic organizations of which said personnel are otherwise generally employed shall not, in and of itself, cause a fund-raising drive by such an organization to fall within the definition of a "professional solicitation campaign" as provided by this article, nor shall said salaried administrative personnel be deemed professional fund solicitors hereunder.

(Code 1986, § 11-342; Ord. No. 9654, §§ 85-86, 1-6-92)

Sec. 11-343. Permit application fee; permit approval or denial; notice of denial; appeals.

(a) Every application or a permit to conduct a professional solicitation campaign shall be accompanied by a nonrefundable permit application fee of fifty dollars (\$50.00); the mayor or his designee shall not examine any application for a permit until the required permit application fee has been paid.

(b) The mayor or his designee shall examine each application for a permit within a period of seven (7) days following the receipt thereof, and if the mayor or his designee finds it to be in conformity with the requirements of this article and all other relevant law or ordinances, he shall approve the application and shall issue a permit to the applicant; provided, however, that the mayor or his designee may deny an application upon reasonable cause to believe that the application is incomplete, or that the proposed campaign will be conducted in violation of the provisions of this article or other applicable law or ordinance. The mayor or his designee shall approve or deny each application for a permit within a period of seven (7) days following the receipt thereof along with the required permit application fee.

(c) If the mayor or his designee shall deny any application to conduct a professional solicitation campaign, he shall immediately provide written notice to the applicant by certified mail, [and] shall advise the applicant of the reasons for the denial of the permit.

(d) Any applicant aggrieved by a decision of the mayor or his designee denying the permit shall have the right to appeal any action or decision of the mayor or his designee to a court of competent jurisdiction.

(Code 1986, § 11-343; Ord. No. 9654, § 85, 1-6-92)

Sec. 11-344. Revocation of permit; hearing.

The mayor or his designee may, in his discretion, revoke any permit issued after due notice and hearing upon a determination that the professional solicitation campaign is being conducted in violation of any provision of this article or of any other law or ordinance. No

hearing shall be held on any such proposed revocation unless and until the permittee shall have been given at least ten (10) days' notice in writing of the date, time, place and purpose of such hearing, including the nature of the alleged violation.

(Code 1986, § 11-344; Ord. No. 9654, § 85, 1-6-92)

Sec. 11-345. Authority of mayor or his designee.

The mayor or his designee shall have authority as follows:

- (1) To receive and maintain filings of notices and reports in accordance with the provisions hereof.
- (2) To receive, investigate and issue notices and subpoenas, to compel attendance of witnesses and the production of documents, to administer oaths, and to conduct hearings upon complaints filed by any person, group or organization related to the conduct of professional solicitation campaigns and professional fund solicitors as defined herein and for the determination of such other issues as the mayor or his designee is authorized to hear under the provisions hereof.
- (3) To publish any and all documents filed with the mayor or his designee and any findings of fact which the mayor or his designee might make with respect to any issue arising from the provisions of this article.
- (4) To seek relief from any court of competent jurisdiction for violations of this article including, without limitation, the filing of complaints in appropriate civil courts seeking the issuance of restraining orders or injunctions against alleged offenders and requiring alleged offenders to account for and pay into court any and all proceeds of professional solicitation campaigns alleged to be in violation hereof, and to pursue any criminal actions or remedies permitted by law.
- (5) To investigate and make findings of fact with regard to any and all issues which might arise hereunder; to require the filing of such additional reports and/or notices by any person, group or organization involved in a professional solicitation campaign as the mayor or his designee may deem appropriate at any time during his investigation of such campaign.
- (6) To consider appeals from sponsoring individuals, groups and organizations whose application for a permit to conduct a proposed campaign for the solicitation of funds and/or sale of material in a public place has been denied by the mayor or his designee; to make such investigation of said applicants and their proposals and to conduct such hearings thereupon as are appropriate; and to grant or deny such application in accordance with his findings.

(Code 1986, § 11-345; Ord. No. 9654, § 85, 1-6-92)

Sec. 11-346. Misrepresentation by professional fund solicitors.

It shall be unlawful for any person, group or organization falling within the definition of "professional fund solicitor" as set forth herein and engaged in a professional solicitation campaign within the purview of this article to falsely identify himself, herself or itself as a member of any organization or group sponsoring said fund drive or to use a false name or to knowingly make any misrepresentation of fact or facts to any person or persons in the course of the solicitation.

(Code 1986, § 11-346)

Sec. 11-347. Proper identification by professional fund solicitors.

Any person who falls within the definition of "professional fund solicitor" and is engaged in a professional solicitation campaign within the purview of this article shall identify himself or herself by correct name, domiciliary address, and as a paid employee for fund solicitation on behalf of the sponsoring organization to any prospective contributor before soliciting a contribution from said prospective contributor. Provided, further, that it shall be unlawful for any such person to solicit in a public or private place without wearing an identification card which shall be issued by the department of fire and police and which shall be no smaller than three (3) inches by five (5) inches in size, contain the name and domiciliary address of the solicitor printed or typed with letters no smaller than pica type, identify the solicitor as a "professional fund solicitor," bear a photograph of the solicitor, and contain the name of said sponsoring organization printed with letters no smaller than one-quarter-inch by one-quarter inch; the format of said identification card for professional fund solicitors shall be prescribed by the mayor or his designee; each solicitor obtaining an identification card from the department of fire and police shall pay for the cost of the printing of said identification card in advance of its issuance.

(Code 1986, § 11-347; Ord. No. 9654, § 85, 1-6-92)

Sec. 11-348. Notices to mayor or his designee.

No professional solicitation campaign shall be commenced by any individual, group or organization within the city limits until and unless the sponsoring individual, group or organization shall have filed an application for permit with the mayor or his designee not less than seven (7) days in advance thereof identifying the proposed professional solicitation campaign, the name and domiciliary address of every individual, group and organization who are to be used as professional fund solicitors in connection therewith, and the intention of both the sponsor and of all professional solicitors named therein of complying with the provisions of this article. Said application shall likewise furnish the following additional information:

- (1) The full name of the organization applying for a permit to solicit and the address of the headquarters.

- (2) The names and addresses of all officers and directors or trustees of the organization.
- (3) The purpose or purposes for which the gross receipts derived from such solicitations or other activities are to be used.
- (4) The name and address of the person or persons by whom the receipts of such solicitation shall be disbursed and the name, address and phone number of the person(s) authorized to sign checks disbursing the funds collected during the professional solicitation campaign.
- (5) The name, address, local address and local phone number of the person or persons who will be in charge of conducting the professional solicitation campaign.
- (6) An outline of the method or methods to be used in conducting the professional solicitation campaign.
- (7) The period within which such professional solicitation campaign shall be conducted, including the proposed dates for the beginning and ending of such campaign.
- (8) The total amount of funds proposed to be raised.
- (9) The amount of total salaries, wages, fees, commissions, expenses and costs to be expended or paid to anyone in connection with such campaign, and the maximum percentage of funds collected which are to be used to pay such expenses of solicitation and collection.
- (10) A full and complete copy of the registration of the charitable organization which has been filed with the Tennessee Secretary of State, and a full and complete copy of the certificate of registration of such charitable organization, if applicable.
- (11) A full and complete copy of the application for registration with the Tennessee Secretary of State filed by the professional fund solicitor, and a full and complete copy of said certificate of registration issued by the Tennessee Secretary of State.
- (12) A copy of the identification card required by section 11-347 of this Code.
- (13) A full and complete copy of any contract between the professional fund solicitor and the organization for which funds are being solicited.

- (14) A full and complete copy of the speech, talk or other solicitation to be used during the course of the professional solicitation campaign.

(Code 1986, § 11-348; Ord. No. 9654, § 85, 1-6-92)

Sec. 11-349. Final reports to mayor or his designee.

Within sixty (60) days after the conclusion of any professional solicitation campaign, or within sixty (60) days after the conclusion of the period as set forth as the duration for said campaign in any application filed with the mayor or his designee pursuant to the provisions hereof, whichever date comes earlier, the individual, group or organization sponsoring a professional solicitation campaign shall file with the mayor or his designee a copy of an audit, performed in accordance with professional accounting standards, for all funds received and disbursed in connection therewith. The said report shall also contain the following information:

- (1) Any amendments to the information contained in any notice or application previously filed with the mayor or his designee under the provisions hereof.
- (2) A complete list of the names and domiciliary addresses of any and all persons, groups or organizations having participated as professional fund solicitors in said campaign.
- (3) A complete statement of the names and purposes for which disbursements of all proceeds of said campaign have been made through the date of the filing of said report, and a detailed statement of anticipated disbursements of all funds received or to be received therefrom.

(Code 1986, § 11-349; Ord. No. 9654, § 85, 1-6-92)

Sec. 11-350. Professional solicitation by means of coin or currency boxes or receptacles prohibited; exceptions.

In the course of a professional solicitation campaign within the city, solicitation by means of coin or currency boxes or receptacles is prohibited except as follows:

- (a) When each box or receptacle is serially numbered and the mayor or his designee is advised of the number and location of each;
- (b) When each box or receptacle is the responsibility of a bona fide member, agent, or solicitor of the soliciting organization;
- (c) When such responsible person is required to pick up each box or receptacle at the end of the solicitation period;
- (d) When the use of such boxes and receptacles in the solicitation is expressly authorized by the permit granted pursuant to this article; and

(e) When such responsible person has no more than a reasonable number of boxes or receptacles for which he must account.
(Code 1986, § 11-350; Ord. No. 9654, § 85, 1-6-92)

Sec. 11-351. Penalties.

Any person, association or corporation who violates any of the provisions of this article shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). Separate violations by the same person, association or corporation, even during the course of a single fund solicitation, or even when the same violations are repeated upon separate days, may be prosecuted as separate offenses and shall be punishable accordingly; each day any violation of this article continues shall constitute a separate violation.
(Code 1986, § 11-351)

Secs. 11-352 -- 11-370. Reserved.

ARTICLE XII. SIDEWALK VENDORS⁸

Sec. 11-371. Definitions.

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Push-cart. Any wheeled vehicle or device, other than a motor vehicle on trailer, which may be moved with or without the assistance of a motor; which is not required to be licensed or registered by the state department of revenue, and which is used for displaying, storing, or transporting articles offered for sale by a vendor.

Vendor. Any person holding a sidewalk vendor permit and who is engaged in the selling or offering for sale, of food, beverages, fruit or like consumable products, or flowers, from a push-cart.
(Code 1986, § 11-371)

Cross reference -- Definitions and rules of construction generally, § 1-2.

Sec. 11-372. Permit-Required.

No person shall sell, or offer for sale, any food, beverage, fruit, or like consumable products, or flowers on any sidewalk or other public pedestrian right-of-way unless:

⁸ **Cross references --** Persons standing or soliciting in the streets, § 24-176; news vendors' stands, § 32-33.

(1) Such person obtains a sidewalk vendor permit from the city treasurer in accordance with the provisions of this article.

(2) Such sales are made from a push-cart under the control of a sidewalk vendor.
(Code 1986, § 11-372)

Sec. 11-373. Same-Application.

Any person desiring a sidewalk vendor permit shall make written application to the city treasurer stating:

(1) Name, home address, business address, and telephone number of the applicant and the name, address, and telephone number of the owner of the push-cart, if other than the applicant, to be used in the operation of the vendor's business.

(2) A description of the type of food, beverage, or other permissible merchandise to be sold.

(3) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, with the city as a named insured, protecting the applicant and the city from all claims or suits for damages to property or bodily injury, including death, which may arise from operations under or in connection with the permit. Minimum liability limits for such insurance policy shall be not less than the minimum limits specified by Tennessee Code Annotated section 29-20-403. Such insurance shall show paid-up premiums for a minimum of one (1) year and shall provide that the policy will not terminate or be canceled prior to the expiration date without thirty (30) days' advance written notice to the mayor or his designee.

(4) A description and photograph of the vendor's push-cart.
(Code 1986, § 11-373; Ord. No. 9654, § 85, 1-6-92)

Sec. 11-374. Same-Fee, issuance.

Upon compliance with the provisions of section 11-373, the city treasurer shall issue to the applicant a sidewalk vendor's permit authorizing him to do business upon payment of a permit fee of twenty-five dollars (\$25.00); provided, the applicant complies with the other provisions of this article. The twenty-five-dollar fee shall be used to help defray the cost of administering and enforcing the provisions of this article.

(Code 1986, § 11-374)

Sec. 11-375. Same-Validity.

A permit issued under this article shall be valid for one (1) year from the date of issuance and may be renewed annually upon proper application and payment of a permit fee. Each permit shall be valid for only one (1) push-cart. Each applicant shall file an additional application and pay an additional permit fee for each additional push-cart. Failure to keep liability insurance in force and effect for the duration of the permit shall result in revocation of the permit.
(Code 1986, § 11-375)

Sec. 11-376. Same-Display of and signs.

All permits issued under this article shall be displayed at all times during the operation of the vending business. The vendor shall have posted on the push-cart the current prices charged for each type of article sold. No other advertisement, sign, placard, or poster shall be allowed on the push-cart.
(Code 1986, § 11-376)

Sec. 11-377. Same-Prohibited conduct.

No vendor shall:

- (1) Vend anywhere in the city without a satisfactory health permit which shall be affixed to the push-cart so as to be plainly visible to the public.
- (2) Leave any location without first picking up, removing, and disposing of all trash, refuse, and litter surrounding his location.
- (3) Solicit or conduct business with persons in motor vehicles unless such motor vehicles are parked in a parking area.
- (4) Vend on any sidewalk that is not over ten (10) feet in width.
- (5) Vend within ten (10) feet of any driveway entrance.
- (6) Vend within twenty-five (25) feet of a crosswalk at any intersection measured from the nearest edge of a crosswalk.
- (7) Conduct his business in such a way as would restrict or interfere with pedestrian traffic or the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles.
- (8) Vend on any public right-of-way, including but not limited to the sidewalk area, on the city block which surrounds the Ross's Landing Plaza, more particularly described as that block which is bounded by Riverfront Parkway on the north,

Chestnut Street on the west, 2nd Street on the south, and Market Street on the east.

- (9) Vend on any public right-of-way, including but not limited to the sidewalk area in the area which surrounds BellSouth Stadium, more particularly described as that area which is bounded by the eastern edge of the right-of-way of Power Alley Extended on the East, I-124 on the West, 4th Street on the South, and Riverfront Parkway on the North.
- (10) Vend on any public park property or public right-of-way without a permit issued by the Administrator of Parks and Recreation, in the 21st Century Waterfront Area along Riverfront Parkway between Market Street Bridge and Olgiati Bridge; on First Street; along the sidewalk connections between Walnut Street and Market Street adjacent to First Street Steps; on the Walnut Street Bridge and its approaches on the north and south between Frazier Avenue and Second Street; on the Holmberg Bridge; and on the city owned property adjacent to the Hunter Museum, except at the following seven (7) locations:
- a) The approach to the Walnut Street Bridge south of Frazier Avenue;
 - b) The approach to the Walnut Street Bridge along the east side of Walnut Street;
 - c) The approach to the Walnut Street Bridge along the south side of Walnut Street;
 - d) The approach to the First Street Steps to the east of Market Street;
 - e) An area to the west of “The Passage”;
 - f) An area of Ross’s Landing Park north of the Chestnut Street intersection with Riverside Drive;
 - g) An area north of Riverside Drive near the steps going down to the Riverboat dock.

Editor’s Note -- For specific permitted locations, applicants should contact the City Department of Parks and Recreation.

- (11) The Administrator of Parks and Recreation shall from time to time advertise for and accept proposals from persons who desire to provide vending in the identified locations. At a minimum the persons desiring to vend in the identified areas shall include within their proposals the following:

- a) submit that they have or shall acquire before beginning to vend all legally required licenses and permits;
 - b) submit with the response to a request for proposals a picture and written description of the vending cart and equipment it proposes to use;
 - c) submit with the response a complete listing of products it proposes to provided for sale;
 - d) submit with the application the proposed prices of items to be vended; and
 - e) submit a financial proposal to pay the City for the privilege of vending on property owned by the City.
- (12) The Administrator of Parks and Recreation shall review the responses to the requests for proposals and in addition to verifying the requirements set forth in subsection 11 shall evaluate the responses upon the following factors:
- a) The appropriateness of the items for the locale, the uniqueness of items sold, and the reasonableness of the proposed prices, and;
 - b) Customer service experience with the vendor or the vendor's reputation for customer service;
 - c) Years the vendor has been in business;
 - d) The appearance of equipment ;
 - e) The quality of merchandise;
 - f) The availability of the proposer's preferred site or alternate sites;
 - g) The proposed hours of operation; and
 - h) Such other factors as the Administrator of Parks and Recreation shall deem advisable to maintain the unique character of this area and to protect the public health, safety and welfare.
- (13) The Administrator of Parks and Recreation may grant or deny a permit in his discretion. The Administrator may revoke a permit previously granted if the vendor fails to maintain all required licenses and permits; fails to properly pay

the City; changes equipment, products or prices without approval of the Administrator; fails to maintain reasonable hours of operation ; or becomes subject to citizen complaints about the operation of the business.

(Code 1986, § 11-377; Ord. No. 9704, § 1, 4-28-92; Ord. No. 10977, § 1, 3-7-00; Ord. No. 11812, § 1, 3-28-06; Ord. No. 11878, § 1, 8-29-06)

Sec. 11-378. Size requirement for push-carts.

No push-cart shall exceed four (4) feet in width, five (5) feet in height, and six (6) feet in length.

(Code 1986, § 11-378)

Sec. 11-379. Compliance with state and local regulations.

Before any permit is issued by the city treasurer under this article, the applicant must submit satisfactory evidence that he has complied with the state business tax act and all state statutes and regulations controlling health and dispensing of food. Nothing herein shall excuse any applicant/vendor from complying with all applicable state statutes and city ordinances controlling health standards and requirements and the operation of businesses.

(Code 1986, § 11-379)

Sec. 11-380. Exceptions.

The provisions of this article shall not apply to festivals, community-wide projects, and other community-sponsored sales which may occur on a periodic basis and which are submitted to and approved by the mayor. The provisions of this article shall not apply to any sale, act or thing, the regulation or licensing of which would constitute regulation or licensing of interstate commerce, nor shall the provisions of this article apply to any sale, act or thing legally regulated by the Constitution or any law of the United States or of the state.

(Code 1986, § 11-380; Ord. No. 9654, § 13, 1-6-92)

Secs. 11-381 -- 11-395. Reserved.

ARTICLE XIII. SPECIAL SALES

Sec. 11-396. Statutes adopted.

The provisions of sections 6-55-401 to 6-55-413, both inclusive, of the Tennessee Code Annotated are hereby adopted by the city, as authorized by section 6-55-413, as herein modified, and such sections so adopted and modified, as applied to the city, shall be as set out in this article.

(Code 1986, § 11-396)

Sec. 11-397. Definitions.

The following terms wherever used or referred to in this article, shall have the following meaning unless a different meaning appears from the context:

Inspector shall mean an inspector employed by the department of finance of the city.

License shall mean a license issued pursuant to this article.

Licensee shall mean any person to whom a license has been issued pursuant to this article.

Person shall mean one (1) or more individuals, partnerships, associations, corporations, business trusts, legal representative, or any organized group of persons conducting a sale within the definition of this chapter.

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

Sale for purposes of this chapter shall mean the sale or any offer to sell to the public, goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, wind up, discontinuance, conclusion, or abandonment of the business in connection with such sale. The definition of "sale" within this chapter shall include any sale advertised to the public in such a manner as to reasonably cause the public to believe that upon the disposition of the stock of goods on hand the business will cease and be discontinued which shall include but not be limited to any sale advertised as "adjuster's sale"; "adjustment sale"; "alteration sale"; "assignee's sale"; "benefit of creditors sale"; "benefit of trustee's sale"; "liquidation sale"; "reorganization sale"; "final days sale"; "forced out of business sale"; "lease expires sale"; "loss of lease sale"; "mortgage sale"; "quitting business sale"; "receiver's sale"; "removal sale"; and any and all other sales advertised in such a manner as to reasonably convey to the public that upon disposal of the stock of goods on hand the business will cease and be discontinued.

Treasurer shall mean the treasurer of the city.
(Code 1986, § 11-397; Ord. No. 9807, §§ 1-2, 11-2-92)

Cross reference -- Definitions and rules of construction generally, § 1-2.

Sec. 11-398. Exemptions.

The provisions of this chapter shall not apply to or affect the following persons:

- (1) Persons acting pursuant to an order of process of a court of competent jurisdiction;
 - (2) Persons acting in accordance with their powers and duties as public officers, such as sheriffs and marshals;
 - (3) Duly licensed auctioneers, selling at auction.
- (Code 1986, § 11-398)

Sec. 11-399. Treasurer may make regulations.

The treasurer is further empowered to make such rules and regulations for the conduct and advertisement of such sale or special sale as in his opinion will serve to prevent deception and to protect the public.

(Code 1986, § 11-399)

Sec. 11-400. Violation declared nuisance; enforcement.

To conduct any sale herein defined without obtaining the license required by this chapter or to violate any other provisions of this chapter is hereby declared to be a misdemeanor and a public nuisance, and, for the purpose of the enforcement of this chapter, the treasurer is hereby authorized fully to exercise all powers of collection, as authorized to be extended and granted to county court clerks or municipal officers, or collectors by and in as full a manner as provided by Tennessee Code sections 67-4-210(a) and (b) and 67-4-213(b). In addition to the other requirements providing for the collection of the license fee herein imposed and for the enforcement of this chapter, the treasurer is authorized to certify to the city attorney the failure of any person to obtain a license as herein required and to pay the fee therefor or the violation of any other provisions hereof. Thereupon, the city attorney shall forthwith file a bill in a court of proper jurisdiction to enjoin such person from continuing to conduct such sale, which injunction shall remain in force so long as such person is in default. Upon the payment of such a license fee as may be due, and upon compliance with the other provisions of this chapter, the city attorney shall be authorized to dismiss such bill upon the payment of costs by the defendant and all expenses incurred with the institution of such suit.

(Code 1986, § 11-400)

Sec. 11-401. License-Required.

No person shall hereafter publish or conduct any sale of the type defined in section 11-397 without a license therefor.

(Code 1986, § 11-401)

Sec. 11-402. General duties of treasurer.

The treasurer is hereby authorized and empowered to supervise and regulate sales or special sales as defined in section 11-397 of this Code and to issue any appropriate license or licenses therefor. Any special sale licensed within this chapter shall be issued in the discretion of the treasurer upon written application submitted by any person desiring to obtain a license for a sale to be held in accordance with this chapter. The treasurer shall approve a written application form which shall be completed by any person, or by an authorized officer of any corporation which intends to conduct a sale governed by the provisions of this chapter. Any application prepared by the treasurer shall contain:

- (1) a description of the place where such sale is to be held;
- (2) the nature of the occupancy of the person desiring to conduct such a sale, whether by lease or sublease;
- (3) the effective date of the termination of such occupancy;
- (4) the means to be employed in advertising or publishing such a sale;
- (5) the address and position of the person who shall conduct the sale for the licensee, if different from the licensee.

Such application shall further require any person desiring a license to submit with the application an itemized list of all goods, wares and merchandise to be offered for sale at that location including

- (a) the place where such stock was purchased or acquired; and
- (b) if not purchased, the manner of such acquisition by the person desiring to obtain a special sales license under this chapter; and
- (c) other information as may be required pursuant to 11-409.

The treasurer may further include on the application form any additional information which may be required by the provisions of Tennessee law at T.C.A. §§ 6-55-401 to 6-55-413 as amended. (Code 1986, § 11-402; Ord. No. 9807, § 3, 11-2-92)

Sec. 11-403. Investigation of application; issuance; duration.

Upon receipt of an application for a special sale under this chapter which shall include the original business license in effect for that location as set forth within Section 11-402 and the payment of the fee hereinafter established in Section 11-404, the treasurer shall examine and investigate the qualifications of the person requesting a license and shall issue a license for a special sale in accordance with this chapter permitting the advertising, publication, and conduct of such sale if all requirements of this chapter are met. Any license issued by the treasurer shall

not be renewable and shall be for the express period necessary to complete any termination, closing, liquidation, revision, wind up, discontinuance, conclusion or abandonment of any business at a specific location in connection with such sale. Any license issued by the treasurer shall not exceed ninety (90) days.

(Code 1986, § 11-403; Ord. No. 9807, § 4, 11-2-92)

Sec. 11-404. Fee to accompany application.

Upon filing an original application for a license to advertise and conduct a sale or special sale, as defined in this chapter the applicant shall pay to the treasurer a fee in the sum of one hundred dollars (\$100.00). If any application is disapproved, such payment shall be forfeited to the treasurer as and for the cost of investigating the statements contained in such application.

(Code 1986, § 11-405; Ord. No. 9807, § 5, 11-2-92)

Sec. 11-405. Application of regulations.

(a) *Provisions Supplement General Business.* The provisions of this chapter are intended to augment and be in addition to the applicable laws of the State of Tennessee. Where this ordinance imposes a greater restriction upon persons, premises, business, or practices than is imposed by the laws of the State of Tennessee, this ordinance shall control.

(b) *Interval between sales.* Any person who has held a sale, as regulated hereunder, at the location stated in the application under the same or some other business name within one (1) year from the date of such prior application shall not be granted a license to conduct a sale within the provisions of this chapter.

(c) Where a person applying for a license hereunder operates more than one (1) place of business the license shall only apply to the store location specified in the application and no other store or branch shall advertise or represent that it is cooperating or in any way participating in a licensed sale, nor shall the store location or branch conducting a licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.

(Ord. No. 9807, § 5, 11-2-92)

Sec. 11-406. Duties of licensee.

(a) A licensee hereunder shall:

(1) *Adhere to inventory.* Make no additions whatsoever during the period of licensed sale, to the stock of goods set forth in the inventory which is attached to the application for license.

(2) *Truth in advertising.* Refrain from employing any untrue, deceptive or misleading advertising.

- (3) *Adhere to advertising.* Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto.
- (4) *Keep duplicate inventory.* Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to any inspecting official upon request.
- (5) *Segregate non-inventoried goods.* Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of such goods.
- (6) *Display of license.* The special sale license issued by the treasurer pursuant to this chapter shall be prominently displayed near the entrance of the premises and a duplicate of the original application and stock list pursuant to which the license was issued, shall at all times be available to any inspector.
- (7) *Access of inspectors.* The licensee shall permit any City inspector to examine all merchandise in the premises for comparison with the stock list at all times and at the close of each business day the stock list attached to the application shall be revised and those items disposed of during each such day shall be marked thereon.
- (8) *Surrender of business tax license.* After the conclusion of any sale under this chapter which shall in no event exceed ninety (90) days, the licensee shall surrender any business tax license issued by the City of Chattanooga to the treasurer.

(Code 1986, § 11-406; Ord. No. 9807, § 5, 11-2-92)

Sec. 11-407. Contents of advertising.

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

"Sale held pursuant to license number _____ of the Department of Finance of the City of Chattanooga, granted on the _____ day of _____, 19__."

And in such blank spaces shall be indicated the license number and the requisite date.
(Code 1986, § 11-408; Ord. No. 9807, § 5, 11-2-92)

Sec. 11-408. Purchase of goods for sale hereunder.

In order to carry out the purposes of this chapter it shall be unlawful for the applicant to add, permit or permit to be added to, or included in the itemized list of goods, wares, or merchandise to be offered for sale as required by Section 11-402 of this chapter, goods ordered in contemplation of conducting a sale regulated under this article and any unusual order, purchase or addition to the stock of goods of the business hereby affected within thirty (30) days before the filing of such an itemized list of goods shall be deemed to be prima facie evidence of an intent to violate this provision.

(Code 1986, § 11-409; Ord. No. 9807, § 5, 11-2-92)

Sec. 11-409. Manner of listing goods on inventory.

To further carry out the purpose of this article, the itemized list of goods, wares and merchandise to be sold, which is required to be filed along with the application for a license and the business license as provided in Section 11-402, shall be sufficient if such goods, wares or merchandise are listed separately with the dealer cost and date of acquisition of any item to be sold under this chapter.

(Code 1986, § 11-410; Ord. No. 9807, § 5, 11-2-92)

Sec. 11-410. Suspension and/or revocation.

The treasurer shall have power to suspend or revoke at any time any license granted in accordance with this article.

(Code 1986, § 11-407; Ord. No. 9807, § 5, 11-2-92)

Sec. 11-411. Penalties.

Any individual violating the provisions of this chapter shall be subject to a penalty up to and including \$500.00 for each offense and a suspension or revocation of any license issued under this chapter. Each day of violation shall constitute a separate offense.

(Ord. No. 9807, § 5, 11-2-92)

Secs. 11-412 -- 11-420. Reserved.

ARTICLE XIV. ADULT-ORIENTED ESTABLISHMENTS⁹

Sec. 11-421. Findings and purpose.

- (a) The city council of the City of Chattanooga, Tennessee, finds:
 - (1) That homogeneous and heterogeneous masturbatory acts and other sexual acts, including oral sex acts, are being done in adult-oriented establishments in the City of Chattanooga.
 - (2) That offering and providing such space, areas, and rooms where such activities may take place creates conditions that generate prostitution and other crimes.
 - (3) That several days and nights of the week such adult-oriented establishments, particularly adult book stores containing mini-motion picture facilities, are overcrowded and contain more persons than such structures can safely accommodate resulting in a definite fire hazard since in the event of fire such persons would not be able to safely leave all the cubicles, booths and rooms of such establishments.
 - (4) That male prostitutes, particularly teenage males, frequent said establishments for the purpose of providing, within the premises of such establishments, sex-for-hire.
 - (5) That the continued unregulated operation of adult-oriented establishments would be detrimental to the general welfare, health, and safety of the citizens of the City of Chattanooga.

(b) It is the purpose of this article to promote and secure the general welfare, health, and safety of the citizens of the City of Chattanooga.
(Code 1986, § 11-421; Ord. No. 9654, § 2, 1-6-92)

Sec. 11-422. Definitions.

For the purpose of this article, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

⁹ **Editor's note**--The substantive provisions of Ord. No. 8601, enacted March 4, 1986, are codified herein at the request of the city; designation of such provisions as Art. XIV, §§ 11-421--11-437 was at the discretion of the editors.

Cross reference -- Variances and special exceptions for adult-oriented establishments in C-1, C-2, C-3 and M-1 zones, App. B, Art. VIII, § 106.2(n).

- (a) *Adult-oriented establishment* includes, but is not limited to sexually explicit establishments which cater to an exclusively or predominantly adult clientele and offer adult entertainment for business purposes such as: adult bookstores, adult motion picture theaters, adult cabarets, escort agencies, sexual encounter centers, massage parlors, adult saunas, adult video stores, and other enterprises which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined and/or sexual excitement or enticement. 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, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, lingerie studio or any other term of like import which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined for sexual excitement or enticement as a business purpose.
- (b) *Adult bookstore* means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations of sexual conduct which are characterized by their emphasis on the display of "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:
- (1) a principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) a principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) a principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) a principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or

- (5) a principal portion of the business's interior business space is used for the display, sale, or rental of the forgoing enumerated items; or
 - (6) the business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (c) *Adult cabaret* Any restaurant, bar, dance hall, nightclub or other such public place which as one of its principal business purposes regularly features entertainment of an erotic nature, including exotic dancers, go-go dancers, strippers, male or female impersonators or similar entertainers, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way. A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:
- (1) a principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) a principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) a principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) a principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) a principal portion of the business's interior business space is used for the display, sale, or rental of the forgoing enumerated items; or
 - (6) the business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

- (d) *Adult mini-motion picture theater* means an enclosed building with a capacity of less than fifty (50) persons regularly used for its principal business purposes to present material distinguished or characterized by an emphasis on matter depicting, describing or relating to “Sexual Conduct,” “Specified Sexual Activities” or “Specified Anatomical Areas,” as defined below, for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:
- (1) a principal portion of the business’s displayed merchandise consists of the foregoing enumerated items; or
 - (2) a principal portion of the wholesale value of the business’s displayed merchandise consists of the foregoing enumerated items; or
 - (3) a principal portion of the retail value of the business’s displayed merchandise consists of the foregoing enumerated items; or
 - (4) a principal portion of the business’s revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) a principal portion of the business’s interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) the business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering “adult” or “xxx” or “x-rated” or “erotic” or “sexual” or “sensual” or “pornographic” material on signage visible from a public right of way.
- (e) *Adult motion picture theater* means any public place, whether open or enclosed, which is used as one of its principal business purposes for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “Sexual Conduct,” “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined below) for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:
- (1) a principal portion of the business’s displayed merchandise consists of the foregoing enumerated items; or

- (2) a principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) a principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) a principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) a principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) the business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (f) *Adult Video Store* means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one of the following: photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis on the display of "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below). A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:
- (1) a principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) a principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) a principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) a principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or

- (5) a principal portion of the business’s interior business space is used for the display, sale, or rental of the forgoing enumerated items; or
 - (6) the business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering “adult” or “xxx” or “x-rated” or “erotic” or “sexual” or “sensual” or “pornographic” material on signage visible from a public right of way.
- (g) *City Council* means the City Council of the City of Chattanooga, Tennessee.
- (h) *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.
- (i) *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.
- (j) *Adult-entertainment* means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type that has as a principal portion of such performance, any actual or simulated performance of specified sexual activities or sexual conduct exhibition and viewing of any specified anatomical areas, removal of articles of clothing or appearing unclothed, including pantomime, modeling, or any other personal service offered customers involving exhibition and viewing of specified anatomical areas.
- (k) *Operator* means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment.
- (l) *Principal Portion* means at least 33 1/3 % of the thing so described whenever such term is used in this ordinance.
- (m) *Sauna* means an establishment or place which as one of its principal business purposes is in the business of providing:
 - (i) A steam bath; or
 - (ii) Massage services.

A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

- (1) a principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) a principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) a principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) a principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) a principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) the business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (n) *School* - An academic learning center, whether public or private, from the level of nursery through twelfth grade and including secondary education centers, not limited to, but including, community colleges and universities.
- (o) *Sexual Conduct* means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.
- (p) *Sexual Device* means any three-dimensional object primarily designed and marketed for the stimulation of the male or female human genital organs or anus, and shall include three-dimensional reproductions or representations of the human genital organs or anus. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for prevention of pregnancy.

- (q) *Sexual Device Shop* means a commercial establishment that regularly features sexual devices or offers for sale sexual devices as a principal portion of its business purpose. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises to minors by reason of age. A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:
- (1) a principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) a principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) a principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) a principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) a principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) the business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (r) *Sexual Encounter Center* means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- (i) Physical contact in the form of wrestling or tumbling between persons of the opposite sex;
 - (ii) Physical contact between male and female persons or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such 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.

A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

- (1) a principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) a principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) a principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) a principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) a principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) the business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (s) *Specified sexual activities* means:
- (i) Human genitals in a state of sexual stimulation or arousal;
 - (ii) Acts of human masturbation, sexual intercourse or sodomy;
 - (iii) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.
- (t) *Specified anatomical areas* means:
- (1) Less than completely and opaquely covered:

- (i) Human genitals,
 - (ii) pubic region;
 - (iii) Buttocks;
 - (iv) Female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

(Code 1986, § 11-422; Ord. No. 9654, § 87, 1-6-92; Ord. No. 9982, § 2, 12-14-93; Ord. No. 10178; § 1, 3-7-9; Ord. No. 11772, § 1, 12-20-05)

Sec. 11-423. License required.

(a) Except as provided in subsection (e) below, from and after the effective date of this article, no adult-oriented establishment shall be operated or maintained in the City of Chattanooga without first obtaining a license to operate issued by the City of Chattanooga.

(b) 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 each.

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

(d) 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.

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

(Code 1986, § 11-423)

Sec. 11-424. Application for license.

(a) Any person, partnership, or corporation desiring to secure a license shall make application to the city treasurer. The application shall be filed in triplicate with and dated by the city treasurer. A copy of the application shall be distributed promptly by the city treasurer to the Chattanooga Police Department and to the applicant.

(b) The application for a license shall be upon a form provided by the city treasurer. An applicant for a license shall furnish the following information under oath:

- (1) Name and address, including all aliases.
- (2) Written proof that the individual is at least eighteen (18) years of age.
- (3) All residential addresses of the applicant for the past three (3) years.
- (4) The applicant's height, weight, color of eyes and hair.
- (5) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (6) Whether the applicant previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license: whether the applicant has ever had such a license revoked or suspended. the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (7) 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.
- (8) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (9) The address of the adult-oriented establishment to be operated by the applicant.
- (10) The names and addresses of all persons, partnerships, 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.
- (11) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (12) The length of time the applicant has been a resident of the City of Chattanooga, or its environs, immediately preceding the date of the application.
- (13) If the applicant is a corporation, the application shall specify the name, address and telephone number of the corporation, the date and state of incorporation, the name and address of the registered agent for service of process of the corporation, the names and addresses of the officers and directors of the

corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and address of all general partners of the partnership; if the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership.

- (14) A statement by the applicant that he or she is familiar with the provisions of this article and is in compliance with them.
- (15) 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.

(c) Within ten (10) days of receiving the results of the investigation conducted by the Chattanooga Police Department, the city treasurer 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 conclusion of such additional investigation, the city treasurer shall advise the applicant in writing whether the application is granted or denied.

(d) 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 article, 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 treasurer.

(Code 1986, § 11-424; Ord. No. 9654, § 2, 1-6-92; Ord. No. 9980, § 1, 11-23-93; Ord. No. 10270, §§ 1, 2 & 4, 8-1-95)

Sec. 11-425. Standards for issuance of license.

(a) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

- (1) 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 article within five (5) years immediately preceding the date of the application.

(2) If the applicant is a corporation:

- (i) All officers, directors and stockholders required to be named under section 11-424(b) shall be at least eighteen (18) years of age.
- (ii) No officer, director or stockholder required to be named under section 11-424(b) 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 officer, director, or stockholder required to be named under section 11-424(b) shall have been found to have previously violated this article within five (5) years immediately preceding the date of the application.

(3) If the applicant is a partnership, joint venture, 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 article within five (5) years immediately preceding the date of the application.

(b) No license shall be issued unless the Chattanooga Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall

be filed in writing with the city treasurer no later than twenty (20) days after the date of the application.

(Code 1986, § 11-425)

Sec. 11-426. Permit required.

In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the city treasurer. (Code 1986, § 11-426; Ord. No. 10178, § 2, 3-7-95)

Sec. 11-427. Application for permit.

(a) Any person desiring to secure a permit shall make application to the city treasurer. The application shall be filed in triplicate with and dated by the city treasurer. A copy of the application shall be distributed promptly by the city treasurer to the Chattanooga Police Department and to the applicant.

(b) The application for a permit shall be upon a form provided by the city treasurer. An applicant for a permit shall furnish the following information under oath:

- (1) Name and address, including all aliases.
- (2) Written proof that the individual is at least eighteen (18) years of age.
- (3) All residential addresses of the applicant for the past three (3) years.
- (4) The applicant's height, weight, color of eyes, and hair.
- (5) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (6) 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 therefor, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (7) 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.

- (8) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (9) The length of time the applicant has been a resident of the City of Chattanooga, or its environs. immediately preceding the date of the application.
- (10) A statement by the applicant that he or she is familiar with the provisions of this article and is in compliance with them.

(c) Within ten (10) days of receiving the results of the investigation conducted by the Chattanooga Police Department, the city treasurer shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the city treasurer shall advise the applicant in writing whether the application is granted or denied.

(d) 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 article, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the board.

(Code 1986, § 11-427; Ord. No. 9654, § 2, 1-6-92; Ord. No. 10270, § 5, 8-1-95)

Sec. 11-428. Standards for issuance of permit.

(a) To receive a permit as an employee, an applicant must meet the following standards:

- (1) The applicant shall be at least eighteen (18) years of age.
- (2) 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 in any jurisdiction within five (5) years immediately preceding the date of the application.
- (3) The applicant shall not have been found to violate any provision of this article within five (5) years immediately preceding the date of the application.

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

(Code 1986, § 11-428)

Sec. 11-429. Fees.

(a) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(b) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (Code 1986, § 11-429)

Sec. 11-430. Display of license or permit.

(a) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(b) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Chattanooga Police Department, or any person designated by the city council. (Code 1986, § 11-430; Ord. No. 9654, § 87, 1-6-92)

Sec. 11-431. Renewal of license or permit.

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

(b) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(c) If the Chattanooga Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the city treasurer.

(d) Every permit issued pursuant to this article will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an

employee is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee desiring to renew a permit shall make application to the city treasurer. 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 city treasurer. A copy of the application for renewal shall be distributed promptly by the city treasurer to the Chattanooga Police Department and to the employee. The application for renewal shall be upon a form provided by the city treasurer and shall contain such information and data, given under oath or affirmation, as may be required by the city treasurer.

(e) 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 (1/2) of the fee shall be returned.

(f) If the Chattanooga Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the city treasurer.

(g) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated and approved or denied within the same time periods as those established in this Article for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights of appeal to the City Council as set forth in §11-438 of this Article.

(Code 1986, § 11-431; Ord. No. 9654, § 2, 1-6-92; Ord. No. 10270, § 6, 8-1-95)

Sec. 11-432. Revocation of license or permit.

- (a) The mayor shall revoke a license or permit for any of the following reasons:
- (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - (2) The operator, entertainer, or any employee of the operator, violates any provision of this article or any rule or regulation adopted by the city council pursuant to this article; 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.
 - (3) The operator or employee becomes ineligible to obtain a license or permit.
 - (4) Any cost or fee required to be paid by this article is not paid.

- (5) An operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.
- (6) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.
- (7) 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.
- (8) 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.
- (9) Any operator allows continuing violations of the rules and regulations of the Chattanooga-Hamilton County Health Department.
- (10) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(b) Notwithstanding anything herein to the contrary, before revoking or suspending any license or permit, the Mayor shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the City Council. In the event the license holder or permit holder does not request in writing a hearing before the City Council within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.

If the license holder or permit holder desires to request a hearing before the City Council to contest the suspension or revocation, such request shall be made in writing to the Clerk of the City Council within ten (10) days of the license holder's or permit holder's receipt of the notification from the Mayor. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.

If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the Clerk's receipt of such request before the City Council at which time the license holder or permit holder may present evidence as to why the suspension or revocation is improper or contrary to the provisions of this Article. The City

Council shall hear evidence concerning the basis for such suspension or revocation and shall affirm or reverse the suspension or revocation at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-two (22) days after the license holder's or permit holder's receipt of notification of the suspension or revocation, unless an extension beyond such time period is requested by the license holder or permit holder and granted by the City Council.

(c) If the City Council affirms the suspension or revocation, the Office of the City Attorney shall institute suit for declaratory judgment in a court of record in Hamilton County, Tennessee, within five (5) days of the date of any such affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.

(d) 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.

(Code 1986, § 11-432; Ord. No. 9654, §§ 2, 13, & 88, 1-6-92; Ord. No. 10270, § 7, 8-1-95)

Sec. 11-433. Hours of operation.

(a) No adult-oriented establishment shall be open between the hours of 3:00 a.m. and 8:00 a.m. on weekdays or between the hours of 3:00 a.m. and 12:00 noon on Sundays.

(b) All adult-oriented establishments shall be open to inspection at all reasonable times by the Chattanooga Police Department or such other persons as the city council may designate.

(Code 1986, § 11-433; Ord. No. 9654, § 2, 1-6-92)

Sec. 11-434. Responsibilities of the operator.

(a) The operator shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age, birthdate, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city council. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

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

(c) Every act or omission by an employee constituting a violation of the provisions of this article 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.

(d) An operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this article 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.

(e) 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 Chattanooga Police Department at all reasonable times.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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 Chattanooga City Code, Part II [Chapter 11], Article XV, Section[s] 11-421 through 11-437. Entertainers Are:

1. Not permitted to engage in any type of sexual conduct;

2. *Not permitted to expose their sex organs;*
3. *Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.*

(Code 1986, § 11-434; Ord. No. 9654, § 2, 1-6-92)

Sec. 11-435. Prohibitions and unlawful sexual acts.

(a) 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.

(b) 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.

(c) 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.

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

(Code 1986, § 11-435; Ord. No. 10178, §§ 3-4, 3-7-95)

Sec. 11-436. Penalties and prosecution.

(a) Any person, partnership, or corporation who is found to have violated this article shall be fined a definite sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any permit or license.

(b) Each violation of this article 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.

(Code 1986, § 11-436)

Sec. 11-437. Invalidity of part.

Should any court of competent jurisdiction declare any section, clause, or provision of this article to be unconstitutional, such decision shall affect only such section, clause, or

provision so declared unconstitutional, and shall not affect any other section, clause or provision of this article.

(Code 1986, § 11-437)

Sec. 11-438. Denial of applications or renewals.

(a) As used in this section, "application" shall mean (i) an application for a license, (ii) an application for a permit, (iii) an application for a license renewal, and (iv) an application for a permit renewal.

(b) Whenever an application is denied, the City Treasurer shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the City Council. If the applicant desires to request a hearing before the City Council to contest the denial of an application, such request shall be made in writing to the Clerk of the City Council within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the Clerk's receipt of such request before the City Council at which time the applicant may present evidence as to why the application should not be denied. The City Council shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-two (22) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the City Council.

(c) If the City Council affirms the denial of an application, the Office of the City Attorney shall institute suit for declaratory judgment in a court of record in Hamilton County, Tennessee, within five (5) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law.

(Ord. No. 10270, § 3, 8-1-95)

Secs. 11-439 -- 11-449. Reserved.

ARTICLE XV. TEEN SOCIAL CLUBS

Sec. 11-450. Definitions.

For purposes of this Article, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(a) "Teen social club" shall mean any business establishment which advertises itself, holds itself out to the public as, or is operated primarily as a "Teen Club", "Teen Dance Club", and/or any business establishment which provides entertainment or social activities primarily to teenagers of the ages restricted by the Curfew Ordinance of the City of Chattanooga regardless

of whether such establishment is conducted, operated or maintained for a profit; "teen social club" does not include movie theaters, amusement parks or a sporting event or facility.

(b) "Advertise" shall mean promotional signs on the premises, off-premise signs and any written, live, videotaped or audiotaped promotional presentations for the business establishment which feature or promote the attendance of teenagers.

(c) "Alcoholic beverages" shall mean beer or other beverages of like alcoholic content regulated by Chattanooga City Code, Chapter 5, and any establishment selling or serving liquor or wine regulated by the provisions of T.C.A. § 57-1-101, et seq.

(d) "Curfew Ordinance" shall mean Chattanooga City Code, Chapter 25, Sections 25-2 through 25-5.

(e) "Entertainment and social activities" shall mean activities at establishments which feature live music for attendance by teenagers, activities at establishments which feature recorded music activities attended by teenagers, and activities at establishments which provide dancing activities for teenagers.

(f) "Licensed premises" shall include the building or facility in which the teen social club is located and any parking area provided by the establishment for its patrons.

(g) "Teenager" shall mean a person age thirteen up to age eighteen.
(Ord. No. 10164, § 1, 1-24-95; Ord. No. 11007, § 1, 5-9-00)

Sec. 11-451. Location restrictions.

No part of the licensed premises of a teen social club operating within the City of Chattanooga shall be located within five hundred feet (500') of the nearest property line of any property on which alcoholic beverages are served or sold or within five hundred feet (500') of the nearest property line of any property on which is located an adult oriented establishment as defined in § 11-422 of this Code.

(Ord. No. 10164, § 1, 1-24-95; Ord. No. 11007, § 1, 5-9-00)

Sec. 11-452. License Application.

Any teen social club located within the City of Chattanooga shall obtain a license for continued business operation from the city treasurer which shall be displayed in a conspicuous public place in the teen social club. Any operator of a teen social club desiring to obtain a license shall make application to the city treasurer and shall pay an annual license fee to the City of \$50.00. The failure to obtain a license pursuant to this section shall constitute a violation of this section and is subject to the civil penalties authorized by Chattanooga City Code § 1-8.

(Ord. No. 10164, § 1, 1-24-95)

Sec. 11-453. Revocation of license or permit.

(a) The city treasurer shall revoke a license granted to any teen social club for any of the following reasons:

- (1) The operator, or any employee of the operator, violates any provision of this Article, 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 treasurer shall find that the operator had no actual or constructive notice of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge.
- (2) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.
- (3) Any operator allows continuing violations of the rules and regulations of the Chattanooga-Hamilton County Health Department.
- (4) More than five violations of the Curfew Ordinance occur on the licensed premises in a twelve-month period.

(b) Before revoking or suspending the license of any teen social club, the city treasurer shall give written notice to the person or company in whose name such license is issued notifying such license holder of the charges against the teen social club and setting a hearing date not less than five (5) business days in advance in which the licensee may appear and be heard. The decision of the city treasurer shall be final.

(Ord. No. 10164, § 1, 1-24-95; Ord. No. 11007, § 2, 5-9-00)

Sec. 11-454. Hours of operation; Inspection by Police Department.

(a) Teen social clubs shall be closed between the hours of eleven o'clock (11:00) p.m. to six o'clock (6:00) a.m. provided that on Friday and Saturday nights such clubs may remain open until twelve o'clock (12:00) midnight, and provided further that on Sunday mornings such clubs shall be closed until twelve o'clock (12:00) noon.

(b) Teen social clubs shall be open to inspection at all reasonable times by any officer of the Chattanooga Police Department.

(Ord. No. 10164, § 1, 1-24-95; Ord. No. 11007, § 2, 5-9-00)

Sec. 11-455. Responsibilities of operators; exemptions; identification of minors.

(a) No teen social club within the City of Chattanooga shall allow a teenager under the age of 16 years to enter the licensed premises during any hours in violation of the Curfew Ordinance.

(b) No teen social club within the City of Chattanooga shall allow any teenager under the age of 16 years to remain on the licensed premises during any hours in violation of the Curfew Ordinance.

(c) All teen social clubs shall post in a visible location at the entrance and inside the establishment upon signage approved by the Chief of Police the applicable curfew hours for teenagers as specified by the Curfew Ordinance.

(d) All operators of teen social clubs shall be personally responsible and vicariously liable without proof of intent for any violations of the Curfew Ordinance occurring during any hours of operation during which teenagers would be prohibited from being present on the licensed premises under the provisions of the Curfew Ordinance.

(e) The following are exceptions to the operation of the Curfew Ordinance:

- (1) At any time if a minor is accompanied by such minor's parent or legal guardian;
- (2) When accompanied by a person age eighteen (18) or over authorized by a parent or guardian of such minor to take such parent or guardian's place in accompanying the minor for a designated period of time and purpose within a specified area;
- (3) If the minor is legally employed for the period from forty-five (45) minutes before to forty-five (45) minutes after work while going directly between the minor's home and place of employment. This exception shall also apply if the minor is in a public place during curfew hours in a course of the minor's employment. To come within this exception, the minor must be carrying written evidence of employment which is issued by the employer;
- (4) When returning home by direct route from and within thirty (30) minutes of the termination of a school activity or an activity of a religious organization or a place of entertainment open to the public at large such as a movie, play or sporting event. This exception shall not apply beyond one o'clock (1:00) a.m.
- (5) In the case of reasonable necessity, but only after such minor's parent has previously communicated to law enforcement personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose, including place or origin and destination. A copy of such communication, or the record thereof, an appropriate notation of the time it was received and of the names and addresses of such parent or guardian and minor constitute evidence of qualification under this exception;
- (6) When exercising freedom of religion or freedom of speech, provided that the minor shall have shown evidence of the good faith of such exercise and provided notice to the City by previously delivering to the Chief of Police a written

communication signed by such minor with the minor's home address and telephone number, specifying when, where and in what manner the minor will be on the streets at night during hours when the curfew is still otherwise applicable to the minor in the exercise of the minor's rights specified in such communication.

(f) Each teen social club operator shall be required at all times to identify by wristband any individuals on the licensed premises under the age of sixteen (16) years. Photo identification shall be required of all minors under the age of sixteen (16) years admitted into a teen social club and an entry log shall be kept of the information contained within the photo identification, including the name, age and birth date of all patrons under the age of sixteen (16) years. Such log shall be provided to any officer of the Chattanooga Police Department upon request.

(Ord. No. 11007, § 3, 5-9-00)