

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

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CHAPTER 1

MISCELLANEOUS

SECTION

9-101. Doing business on Sunday.

9-101. Doing business on Sunday. It shall be unlawful for any person to open any store or place of business and sell any goods, wares or merchandise on Sunday; however, this section shall not be applied to movie theaters, drugstores, restaurants or service stations. (1973 Code, § 7-1)

¹Municipal code reference

Building, utility and housing codes: title 12.

Municipal code references 1

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

Liquor and beer regulations: title 8.

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CHAPTER 2

PEDDLERS, ETC.

SECTION

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9-201. Defined. As used in this chapter, the term "peddler" shall mean any person, whether or not a resident of the city, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, house to house, or street to street, carrying, conveying, or transporting goods, wares, merchandise, fish, vegetables, fruits or other products or provisions and offering and exposing them for sale; or who, without traveling from place to place, sells or offers for sale such products from a wagon, automotive vehicle or other conveyance. A "peddler" shall also include any "hawker," "huckster," or "street vendor," but shall exclude any solicitor subject to the provisions of this chapter. (1973 Code, § 7-34)

9-202. Permit required. No person shall act as a peddler in the city unless he shall have first obtained a permit therefore from the recorder. (1973 Code, § 7-35)

9-203. Application for permit. Each applicant for a permit required by this chapter shall file an application therefore stating or containing the following:

- (1) The name of the applicant;
- (2) A brief description of the nature of the goods to be sold;
- (3) If employed, the name and address of the peddler's employer;
- (4) If a vehicle is to be used, a description of it together with the license number or other means of identification;
- (5) Evidence of the good moral character of the applicant. (1973 Code, § 7-36)

9-204. Contents of permit. Each permit issued under the provisions of this chapter shall show the name and address of the peddler, the kind of goods to be sold, the date of issuance, the permit number and the identifying description of any vehicle used by the peddler. (1973 Code, § 7-37)

9-205. Exhibition of permit. Any peddler shall exhibit his permit issued pursuant to this chapter to any police officer or person solicited, upon demand. (1973 Code, § 7-38)

9-206. Restrictions on hours and location of business. No peddler shall engage in the business of peddling:

- (1) During the hours of darkness;
- (2) On Sunday;
- (3) Within two hundred (200) feet of a public market house;
- (4) Within two hundred (200) feet of a curb market. (1973 Code, § 7-39)

9-207. Revocation or suspension of permit. Any permit issued under the provisions of this chapter may be suspended or revoked by the board of mayor and aldermen for any of the following reasons:

- (1) Fraud, misrepresentation or a false statement contained in the application for the permit;
- (2) Fraud, misrepresentation or a false statement in the course of carrying on the business of peddling;
- (3) Conviction of any crime involving moral turpitude;
- (4) Conducting the business of peddling in such a manner as to create a public nuisance, cause a breach of peace or constitute a danger to the public health, safety or welfare;
- (5) Allowing another to use the permit. (1973 Code, § 7-40)

9-208. Permit fee. All peddlers, street vendors, etc. as herein defined shall pay the City of Newport, Tennessee a permit fee of fifty dollars (\$50.00) prior to conducting business within the city limits. The permit fee is due at the time of application and covers a period of fourteen (14) consecutive days after which business shall not be conducted until the permit is renewed or a new permit issued. (Ord. #86-11, Dec. 1986)

9-209. Permanent, complying building required. All peddlers, street vendors, etc., as herein defined shall only conduct business from a permanent structure. Said structure shall comply with all state and municipal codes and said structure must be either leased to or under the ownership of the applicant. (Ord. #86-11, Dec. 1986)

9-210. Exception to regulations. These regulations apply to all peddlers, street vendors, etc. within the city limits with the exception of those operating roadside stands for the sale of agricultural or forestry products and shall not apply to special events (craft fair, street festival, holiday events) sponsored by charitable, religious, government or other non-profit organizations, not to exceed three (3) days. (Ord. #86-11, Dec. 1986)

CHAPTER 3

SOLICITORS AND CANVASSERS

SECTION

9-301. When permit required.

9-302. Application for permit.

9-303. Bond.

9-304. Exhibition of permit.

9-305. Transferability of permit.

9-306. Revocation of permit.

9-307. Charitable solicitations.

9-301. When permit required. It shall be unlawful for any person, whether a resident of the city or not, who goes from house to house, from place to place or from street to street, soliciting or taking or attempting to take orders for the sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for future delivery or for services to be performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the order or whether or not he is collecting advance payments on such orders, to induce or invite such orders, without having first obtained from the recorder a permit therefore. This section shall also apply to any person who, for himself or for another person, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, hotel room, lodging house, apartment, shop or other place within the city for the primary purpose of exhibiting samples and taking orders for future delivery. (1973 Code, § 7-17)

9-302. Application for permit. Any person desiring a permit required by this chapter shall apply therefore in writing to the recorder. The application shall state or contain:

- (1) The name of applicant;
- (2) A complete permanent home and the local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the applicant's employer, together with credentials there from establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The source of supply of the goods or property proposed to be sold or orders taken for the sale thereof; where the goods or products are located at the time said application is filed and the proposed method of delivery;
- (7) The last cities or towns not to exceed three (3), where the applicant carried on business immediately preceding the date of application and the addresses from which the business was conducted in those municipalities;
- (8) A personal description and complete identification of the applicant;
- (9) Such other credentials and evidence of the good moral character and identity of the applicant as may be reasonably required by the recorder. (1973 Code, § 7-18)

9-303. Bond. Each application for a permit required by this chapter shall be accompanied by a surety bond, or a personal bond executed by two (2) good and sufficient sureties who are bona fide residents of the city. The bond shall be payable to the city in the amount of five hundred dollars (\$500.00) conditioned that the applicant shall comply fully with all the provisions of this code and the state law regulating solicitors and canvassers. It shall guarantee to all residents of the city that all money paid as a down payment will be accounted for and applied according to the representations made, that the property purchased will be delivered according to such representations and shall be as represented by the solicitor and that the solicitor will refund the purchase price of any goods sold by him which are not as represented. Action on the bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given, but the surety may by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1973 Code, § 7-19)

9-304. Exhibition of permit. A permit issued pursuant to this chapter shall be carried at all times by the person to whom it was issued when soliciting or canvassing in the city and shall be exhibited upon the request of any police officer or person solicited. (1973 Code, § 7-20)

9-305. Transferability of permit. No permit issued pursuant to this chapter shall be used at any time by any person other than the one to whom it was issued. (1973 Code, § 7-21)

9-306. Revocation of permit. Any permit issued pursuant to this chapter may be revoked by the board of mayor and aldermen for violations by the holder thereof of any of the provisions of this code or of state or federal law or whenever the holder of the permit shall cease to possess the character and qualifications required by this chapter for the issuance of the permit. (1973 Code, § 7-22)

9-307. Charitable solicitations. It shall be unlawful for any person representing or claiming to represent, any church, school or any eleemosynary, charitable, religious, social service or public institution or organization of any kind to solicit money or subscriptions from the general public or to sell tickets or to canvass for advertising space on any program, booklet, pamphlet or other printed matter for the benefit or for the alleged benefit of any such institution or organization without first obtaining a permit therefore from the recorder, who shall have authority to issue the permit if the purpose thereof is found to be worthy and bona fide. This section shall not, however, apply to solicitations made at the regular services or meetings of such organizations, but is intended to regulate solicitations from the general public. (1973 Code, § 7-23)

CHAPTER 4

TAXICABS

SECTION

- 9-401. Definitions.
- 9-402. Solicitation of business.
- 9-403. Parking.
- 9-404. Routes.
- 9-405. Unlawful use.
- 9-406. Transportation of more than one passenger.
- 9-407. Franchise required.
- 9-408. Persons ineligible for franchise.
- 9-409. Application.
- 9-410. Investigation; recommendation.
- 9-411. Hearing.
- 9-412. Financial responsibility.
- 9-413. Revocation or suspension.
- 9-414. State license and city permit required.
- 9-415. Persons eligible for permit.
- 9-416. Revocation or suspension of permit.
- 9-417. Prohibited conduct.
- 9-418. Equipment.
- 9-419. Cleanliness.
- 9-420. Inspections.

9-401. Definitions. As used in this chapter, the following terms shall have the meanings ascribed to them: "Taxicab" shall mean all automotive vehicles used in and upon the public streets for carrying passengers for hire except motor buses or coaches operated by bus lines over designated routes in and through the city. "Taxicab business" shall mean the use of one (1) or more taxicabs within the city for the purpose of carrying passengers for hire. (1973 Code, § 18-16)

9-402. Solicitation of business. It shall be unlawful for any taxicab driver to indiscriminately solicit passengers or cruise upon the streets of the city for the purpose of obtaining patronage for their cabs. (1973 Code, § 18-17)

9-403. Parking. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked for such use; however, taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to interfere with or obstruct other traffic and if the passenger loading or discharging is promptly accomplished. (1973 Code, § 18-18)

9-404. Routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1973 Code, § 18-19)

9-405. Unlawful use. No taxicab shall be used for or in the commission of any illegal act, business or purpose. (1973 Code, § 18-20)

9-406. Transportation of more than one passenger. No person shall be admitted to a taxicab already occupied by a passenger without the consent of the latter. (1973 Code, § 18-21)

9-407. Franchise required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a franchise therefore from the city. (1973 Code, § 18-27)

9-408. Persons ineligible for franchise. No person shall be eligible to apply for a franchise required by this chapter if he has a bad character, has been convicted of a felony within the last ten (10) years or is not a bona fide resident of the city. (1973 Code, § 18-28)

9-409. Application. Applications for a franchise required by this chapter shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of the cabs and such other relevant information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. (1973 Code, § 18-29)

9-410. Investigation; recommendation. Within ten (10) days after the receipt of an application for a franchise required by this chapter, the chief of police shall make a thorough investigation of the applicant, determine if there is a public need for additional taxicab service, present the application to the board of mayor and aldermen and make a recommendation to either grant or refuse a franchise to the applicant. (1973 Code, § 18-30)

9-411. Hearing. The board of mayor and aldermen shall, upon the investigation and recommendations of the chief of police as to the application for a franchise required by this chapter, hold a public hearing. At that time, witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise, the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of an additional taxicab franchise. (1973 Code, § 18-31)

9-412. Financial responsibility. No franchise required by this chapter shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in the amount of ten thousand dollars (\$10,000.00) for bodily injury to any one (1) person, twenty thousand dollars (\$20,000.00) for injuries to more than one (1) person which are sustained in the same accident and five thousand dollars (\$5,000.00) for property damage resulting from any one (1) accident. The required insurance or bond shall inure

to the benefit of the city and any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a taxicab owner, operator or driver. The insurance policy or bond required by this section shall contain a provision that it shall not be cancelled except after twenty (20) days written notice is given by the insurer or surety to the recorder. (1973 Code, § 18-32)

9-413. Revocation or suspension. The board of mayor and aldermen, after a public hearing, may revoke or suspend any franchise granted pursuant to this division for repeated violations of this chapter or the traffic laws of the city by the taxicab operator or his drivers. (1973 Code, § 18-33)

9-414. State license and city permit required. No person shall drive a taxicab unless he is in possession of a state chauffeur's license and a taxicab driver's permit issued by the chief of police. (1973 Code, § 18-39)

9-415. Persons eligible for permit. No person shall be issued a permit required by this chapter unless he complies with the following to the satisfaction of the chief of police:

- (1) He makes written application therefore to the chief of police;
- (2) He is eighteen (18) years old or over and holds a state chauffeur's license;
- (3) He is of sound physique with good eyesight and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle;
- (4) He is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs;
- (5) He produces affidavits of good character from two (2) reputable citizens of the city who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application;
- (6) He has not been convicted of a felony, drunk driving, or driving under the influence of an intoxicant or drug;
- (7) He is familiar with the local traffic laws. (1973 Code, § 18-40)

9-416. Revocation or suspension of permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any permit issued pursuant to this, division for a violation of this article or for repeated violations of the traffic laws of the city. (1973 Code, § 18-41)

9-417. Prohibited conduct. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink, any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the city in any way. (1973 Code, § 18-42)

9-418. Equipment. It shall be unlawful for any taxicab to operate in the city unless it is equipped with proper four (4) wheel brakes, front and rear lights, tires, horn, muffler, windshield wiper and rear vision mirror, all of which shall conform to the requirements of state law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of

the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical functions shall be kept in such condition of repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1973 Code, § 18-48)

9-419. Cleanliness. All taxicabs operated in the city shall at all times be kept in a reasonably clean and sanitary condition; they shall be thoroughly swept and dusted at least once each day. At least once each week, taxicabs shall be thoroughly washed and the interior cleaned with some suitable antiseptic solution. (1973 Code, § 18-49)

9-420. Inspections. All taxicabs shall be inspected at least semi-annually by the chief of police to insure that they comply with the requirements of this division with respect to mechanical condition and cleanliness. (1973 Code, § 18-50)

CHAPTER 5

POOL ROOMS

SECTION

9-501. Days and hours of operation.

9-502. Requirements as to premises.

9-503. Persons under eighteen years of age.

9-501. Days and hours of operation. It shall be unlawful for the operator of any pool room or any of his employees, to allow the pool room to be open for business at any time on Sundays or on weekdays and nights except between the hours of 7:00 A.M. and 10:00 P.M. (1973 Code, § 4-17)

9-502. Requirements as to premises. No pool room shall be allowed except in a building, place or room that has an entrance directly and immediately upon some street and which also has a front window affording at all times an unobstructed, plain view of the entire interior of the building, place or room from the street. (1973 Code § 4-18)

9-503. Persons under eighteen years of age. It shall be unlawful for the operator of any pool room or any of his employees, to allow persons under the age of eighteen (18) years to visit in, loiter in or around or to play pool or any other game therein. (1973 Code, § 4-19)

CHAPTER 6

AMUSEMENTS

SECTION

9-601. Restriction as to location of carnivals, tent shows and similar entertainments.

9-601. Restriction as to location of carnivals, tent shows and similar entertainments.

No person shall give, conduct, operate or attempt to give, conduct or operate, any street fair, carnival, tent show or other exhibition or theatrical production of like character at any place within three hundred (300) yards of any church, residence or place of business. (1973 Code, § 4-1)

CHAPTER 7

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-701. Purpose and findings.
- 9-702. Definitions.
- 9-703. Classification.
- 9-704. License required.
- 9-705. Issuance of license.
- 9-706. Fees.
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- 9-714. Signage.
- 9-715. Massage or baths administered by persons of opposite sex.
- 9-716. Additional regulations for adult motels.
- 9-717. Regulations pertaining to exhibition of sexually explicit films videos or live entertainment in viewing rooms.
- 9-718. Additional regulations for escort agencies.
- 9-719. Additional regulations for nude model studios.
- 9-720. Additional regulations concerning public nudity.
- 9-721. Prohibition against children in a sexually oriented business.
- 9-722. Hours of operation.
- 9-723. Injunction.

9-701. Purpose and findings. (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material. (Ord. #03-04-08, April 2003)

9-702. Definitions. (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically,

electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore, adult novelty store or adult video store" means a commercial establishment which, as one of its principal purposes, offer for sale or rental for any form of consideration any one (1) or more of the following:

- (a) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or
- (b) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical area" and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (a) Persons who appear in a state of nudity or semi-nude; or
- (b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or
- (c) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(4) "Adult motel" means a hotel, motel or similar commercial establishment which:

- (a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(5) "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(6) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(7) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

(8) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(9) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(10) "Establishment" means and includes any of the following:

- (a) The opening or commencement of any sexually oriented business as a new business;
- (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (c) The additions of any sexually oriented business to any other existing sexually oriented business; or
- (d) The relocation of any sexually oriented business.

(11) "License" means a person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

(12) "Nude model studio" means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical area" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- (a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- (b) Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
- (c) Where no more than one (1) nude or semi-nude model is on the premises at any one time.

(13) "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering,

the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(14) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(15) "Semi-nude" or in a "semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(16) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

(17) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(18) "Specified anatomical areas" means:

(a) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(b) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(19) "Specified criminal activity" means any of the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

(b) For which:

(i) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(iii) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

(c) The fact that a conviction is being appealed shall have no effect the disqualification of the applicant or a person residing with the applicant.

(20) "Specified sexual activities" means any of the following:

- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
- (c) Excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

(21) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this chapter takes effect.

(22) "Transfer or ownership or control" of a sexually oriented business means and includes any of the following:

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. #03-04-08, April 2003)

9-703. Classification. Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores, adult novelty stores, or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers. (Ord. #03-04-08, April 2003)

9-704. License required. (1) It is unlawful:

- (a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this chapter.
- (b) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the city pursuant to this chapter.
- (c) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(2) An application for a license must be made on a form provided by the city.

(3) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this chapter.

(4) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(5) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(a) If the applicant is:

(i) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen (18) years of age;

(ii) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state:

(i) The sexually oriented business's fictitious name; and

(ii) Submit the required registration documents.

(c) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

(d) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(e) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance

from another city or county and if so, the names and locations of such other licensed businesses.

(f) The single classification of license for which the applicant is filing.

(g) The location of the proposed sexually oriented business, including a legal description of the property, street address, and the telephone number(s), if any.

(h) The applicant's mailing address and residential address.

(i) A recent photograph of the applicant.

(j) The applicant's driver's license number, social security number, and/or his/her state or federally issued tax identification number.

(k) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(l) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the distances to all property lines, structures and uses in which the distance is regulated under § 9-712. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(m) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth § 9-717.

(6) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the city the following information:

(a) The applicant's name or any other name (including "stage" names) or aliases used by the individual.

(b) Age, date, and place of birth;

(c) Height, weight, hair and eye color;

(d) Present residence address and telephone number;

(e) Present business address and telephone number;

(f) Date, issuing state and number of driver's permit or other identification card information;

(g) Social security number; and

(h) Proof that the individual is at least eighteen (18) years of age.

(7) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

(a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(b) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether

such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial revocation, or suspension. A copy of any order or denial, revocation, or suspension shall be attached to the application.

(c) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each. (Ord. #03-04-08, April 2003)

9-705. Issuance of license. (1) Sexually oriented employee license.

(a) Upon the filing of said application for a sexually oriented business employee license, the city shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(i) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(ii) The applicant is under the age of eighteen (18) years;

(iii) The applicant has been convicted of a "specified criminal activity" as defined in this chapter;

(iv) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this chapter; or

(v) The applicant has had a sexually oriented business employee license revoked by the city within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in § 9-710.

(b) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 9-706.

(2) Sexually oriented business license. (a) Within thirty (30) days after receipt of a completed sexually oriented business application, the city shall approve or deny the issuance of a

license to an applicant. The city shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- (i) An applicant is under eighteen (18) years of age.
- (ii) An applicant or a person with whom applicant is residing is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
- (iii) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- (iv) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
- (v) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.
- (vi) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
- (vii) The license fee required by this chapter has not been paid.
- (viii) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(b) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to § 9-703. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(c) The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the city.

(d) A sexually oriented business license shall be issued for only one (1) classification as found in § 9-703.

(e) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 9-706. (Ord. #03-04-08, April 2003)

9-706. Fees. (1) Every application for a sexually oriented business license shall be accompanied by a two hundred fifty dollar (\$250.00) nonrefundable application and investigation fee.

(2) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the city an annual non-

refundable license fee of one hundred dollars (\$100.00) within thirty (30) days of license issuance or renewal.

(3) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual twenty-five dollars (\$25.00) non-refundable application, investigation, and license fee.

(4) All license applications and fees shall be submitted to the city recorder of the city. (Ord. #03-04-08, April 2003)

9-707. Inspection. (1) An applicant or licensee shall permit representatives of the police department, health department, fire department, zoning department, or other city departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business. (Ord. #03-04-08, April 2003)

9-708. Expiration of license. (1) Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in § 9-704. Application for renewal shall be made at least thirty (30) days before the expiration date.

(2) When the city denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial becomes final. (Ord. #03-04-08, April 2003)

9-709. Suspension. The city shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with any section of this chapter.

(2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter. (Ord. #03-04-08, April 2003)

9-710. Revocation. (1) The city shall revoke a license if a cause of suspension in § 9-709 occurs and the license has been suspended within the preceding twelve (12) months.

(2) The city shall revoke a license if it determines that:

(a) A licensee gave false or misleading information in the material submitted during the application process.

(b) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises.

(c) A licensee has knowingly allowed a prostitution on the premises.

(d) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.

(e) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or

(f) A licensee is delinquent in payment to the city, county, or state for any taxes or fees past due.

(3) When the city revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

(4) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (Ord. #03-04-08, April 2003)

9-711. Transfer of license. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Ord. #03-04-08, April 2003)

9-712. Location of sexually oriented businesses. (1) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business in any zoning other than commercial as defined and described in Newport Zoning Ordinance.¹

(2) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business within distance of certain establishments as follows:

(a) Within one thousand (1,000) feet of a church, synagogue mosque, temple or building which is used primarily for religious worship and related religious activities.

(b) Within one thousand (1,000) feet of a public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

(c) Within two hundred fifty (250) feet of a boundary of a residential district as defined in the Newport Zoning Ordinance.

(d) Within one thousand (1,000) feet of a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city, county, or park and recreation authorities;

(e) Within five hundred (500) feet of a residential structure in any zoning district.

(f) Within five hundred (500) feet of an entertainment business which is oriented primarily towards children or family entertainment; or

(g) Within two hundred fifty (250) feet of any business or private club licensed by the city or state to sell packaged beer or alcohol for on premises consumption.

¹The Newport Zoning Ordinance is included in this municipal code as 1 Appendix A.

(3) It shall be unlawful if a person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

(4) It shall be unlawful if a person causes or permits the operation, establishment, or maintenance of more than one (1) sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(5) For the purpose of subsection (2) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (2). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(6) For purposes of subsection (3) of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(7) Any sexually oriented business lawfully operating on the effective date of this chapter, that is in violation of subsections (1) through (6) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.

(8) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection (2) of this section with one thousand (1,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked. (Ord. #03-04-08, April 2003)

9-713. Exterior portions of oriented businesses. (1) It shall be unlawful for an owner or operator of a sexually oriented business to allow merchandise or activities of the establishment to be visible from a point outside the establishment.

(2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

(3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

- (a) The establishment is a part of a commercial multi-unit center; and
- (b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color

as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

(5) A violation of any provision of this section shall constitute a misdemeanor. (Ord. #03-04-08, April 2003)

9-714. Signage. (1) Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

- (a) Not contain any flashing lights;
- (b) Be a flat plane; rectangular in shape;
- (c) Not exceed seventy-five (75) square feet in area; and
- (d) Not exceed ten (10) feet in height or ten (10) feet in length.

(3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(4) Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(5) Secondary signs shall have only one (1) display surface. Such display surface shall:

- (a) Be a flat plane, rectangular in shape;
- (b) Not exceed twenty (20) square feet in area;
- (c) Not exceed five (5) feet in height and four (4) feet in width; and
- (d) Be affixed or attached to any wall or door of the enterprise.

(6) The provisions of subsections (2)(a), (3) and (4) shall also apply to secondary signs.

(7) Violation of any provision of this section shall constitute a misdemeanor. (Ord. #03-04-08, April 2003)

9-715. Massages or baths administered by person of opposite sex. It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business, where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this section shall constitute a misdemeanor. (Ord. #03-04-08, April 2003)

9-716. Additional regulations for adult motels. (1) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(2) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(3) For purposes of subsection (2) of this section the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration. (Ord. #03-04-08, April 2003)

9-717. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms. (1) A person who operates or causes to be operated a sexually oriented business other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all area of the interior of the premises to an accuracy of plus or minus six (6) inches. The city may waive the foregoing diagram for renewal application if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city.

(d) It is the duty of the licensee of the premises to ensure that at least one (1) licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the licensee to ensure that the view area specified in subsection (e) of this section remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has

been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.

(g) No viewing room may be occupied by more than one (1) person at any time.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level.

(i) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(j) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(k) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(l) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered

by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the

floor.

(2) A person having a duty under subsections (a) through (n) above commits a misdemeanor if he knowingly fails to fulfill that duty. (Ord. #03-04-08, April 2003)

9-718. Additional regulations for escort agencies. (1) An escort agency shall not employ any person under the age of eighteen (18) years.

(2) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years. (Ord. #03-04-08, April 2003)

9-719. Additional regulations for nude model studios. (1) A nude model studio shall not employ any person under the age of eighteen (18) years.

(2) A person under the age of eighteen (18) years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.

(3) A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (Ord. #03-04-08, April 2003)

9-720. Additional regulations concerning public nudity. (1) It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

(2) It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two (2) feet from the floor.

(3) It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

(4) It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer. (Ord. #03-04-08, April 2003)

9-721. Prohibition against children in a sexually oriented business. A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business. (Ord. #03-04-08, April 2003)

9-722. Hours of operation. No sexually oriented business except for an adult motel, may remain open at any time between the hours of 12:00 A.M. and 8:00 A.M. on weekdays and Saturdays and noon (12:00 P.M.) on Sundays. (Ord. #03-04-08, April 2003)

9-723. Injunction. A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of five hundred dollars (\$500.00) or thirty (30) days imprisonment. Each day a sexually oriented business so operates is a separate offense or violation. (Ord. #03-04-08, April 2003)

CHAPTER 8

HOTEL - MOTEL

SECTION

- 9-801. Definitions.
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9-801. Definitions.

- 1) Consideration means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever;
- 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 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 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) Persons means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, 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. #2012-05, April 2012)

9-802. Permit Required. No person will conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, agent or attorney, any hotel in the city without having obtained a permit from the city administrator or his designee to do so. (Ord. #2012-05, April 2012)

9-803. Fee. The fee for each hotel permit will be twenty-five (\$25.00). (Ord. #2012-05, April 2012)

9-804. Not Transferable. No permit issued under this ordinance shall be transferred or assigned. (Ord. #2012-05, April 2012)

9-805. Duration. Hotel permits shall be issued annually and shall expire on the last day of December of each year. (Ord. #2012-05, April 2012)

9-806. Register Required; Availability for Inspection. Every person to whom a permit is issued under this ordinance 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 persons renting a room or by someone under his direction, and after registration is made and the name of the guest is inscribed as herein provided, the manager shall write the number of the room which 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 to the city administrator or his designee. (Ord. #2012-05, April 2012)

9-807. 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. (Ord. #2012-05, April 2012)

9-808. Privilege tax levied; use. (A) Pursuant to the provisions of TCA Title 7, Chapter 4 and Title 67, Chapter 4, Part 14, as amended by the Tennessee General Assembly, Private Act in 2012, there is hereby levied a privilege of occupancy in any hotel of each transient. From and after the operative date of this ordinance the rate of the levy shall be 4% of the consideration charged by the operator. (Ord. #2021-02, May 2021)

This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The City Administrator shall be designed as the authorized collector to administer and enforce this ordinance and these statutory provisions.

(B) The proceeds received from this tax shall be available for the city's general fund solely for the purpose of tourism development. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel. (Ord. #2012-05, April 2012)

9-809. Payment of the Tax. Payment of the tax by the motel to the city shall be no later than the 20th day of each month for the preceding month. (Ord. #2012-05, April 2012)

9-810. Compensation to the Hotel. The hotel may deduct 2% from the amount paid to the City if the payment is not delinquent. (Ord. #2012-05, April 2012)

9-811. Interest and penalty for late payment. The hotel operator is responsible for paying interest on delinquent taxes, 8% per annum, plus a penalty of 1% per month. (Ord. #2012-05, April 2012)

9-812. Records Requirement. The hotel operator must keep records for three years, with the right of inspection by the city. (Ord. #2012-05, April 2012)

CHAPTER 9

TENT SALES

SECTION

9-901. Defined.

9-902. Permit required.

9-903. Application for permit.

9-904. Permit fees and terms.

9-905. Exhibition of permit.

9-906. Transferability of permit.

9-907. Revocation of permit.

9-901. Defined. As used in this chapter, the term “tent sale” shall mean the selling of goods out of a tent, vehicle, temporary structure, or similar temporary display, which is not owned or operated by the owner of the premises on which the sales are taking place. Tent sale shall not include temporary extension of an existing retail business that has a permanent building on the premises, nor shall it include a yard sale held from time to time at a residence. (Ord. #2014-02, April 2014)

9-902. Permit required. It shall be unlawful for any person, whether a resident of the city or not, to set up, maintain, or sell goods at a tent sale without having first obtained from the recorder a permit therefore. A separate permit is required for each location where a tent sale is to be held. (Ord. #2014-02, April 2014)

9-903. Application for permit. Any person desiring a permit required by this chapter shall apply therefore in writing to the recorder. The application shall state:

- (1) The name of applicant;
- (2) A complete permanent home address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) Location of tent sale, along with a sketch drawing of the site showing the location of the sale;
- (5) The source of supply of the goods or property proposed to be sold;
- (6) The applicant’s federal Employer Identification Number, if available;
- (7) Copies of any federal and state permits required to engage in the business or sell the good proposed (such as fireworks sales permits);
- (8) Documentation of any liability insurance carried by the applicant applicable to the tent sale activities. (Ord. #2014-02, April 2014)

9-904. Permit fees and terms. Each application shall be accompanied by a two hundred and fifty dollar (\$250.00) non-refundable application fee. Permits are valid for sixteen consecutive days and expire six months after the date they are issued. (Ord. #2014-02, April 2014)

9-905. Exhibition of permit. A permit issued pursuant to this chapter shall be displayed at all times at the premises of the tent sale for which it was issued and shall be exhibited upon the request of any police officer, city representative, or customer. (Ord. #2014-02, April 2014)

9-906. Transferability of permit. No permit issued pursuant to this chapter shall be used at any time for any location other than the one for which it was issued. (Ord. #2014-02, April 2014)

9-907. Revocation of permit. Any permit issued pursuant to this chapter may be revoked by the board of mayor and aldermen or by the building official for violations by the holder thereof of any of the provisions of this code or of state or federal law or whenever the holder of the permit shall cease to possess the character and qualifications required by this chapter for the issuance of the permit. (Ord. #2014-02, April 2014)

CHAPTER 10

YARD SALES/GARAGE SALES

SECTION

10-1001. Defined.

10-1002. Use Restricted.

10-1001. Definition. “Yard/Garage sales” shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled “garage,” “lawn,” “yard,” “attic,” “porch,” “room,” “backyard,” “patio,” “flea market,” or rummage” sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. (Ord. #2021-07, September 2021)

10-1002. Use restricted. The following restrictions shall apply for yard/garage sales within the corporate limits of the City of Newport:

- 1) **Eligible Times.** Yard Sales are only allowed on weekends. This can be all or any combination of days of Friday 8 a.m. to 6:00 pm, Saturday 8 a.m. to 6:00 p.m., Sunday 12:00 p.m. to 6:00 p.m. (Ord. #2021-07, September 2021)
- 2) **Permit required.** No yard/garage sale shall be conducted unless and until the individuals desiring to conduct such sale registers the event with the Department of Community Development through the permitting process. (Ord. #2021-07, September 2021)
- 3) **Permit procedure.** (1) The applicant for a yard sale permit must register their yard sale through the Department of Community Development. Permits will be allowed if the applicant has not applied or is applying to hold a yard sale in consecutive weekends. The permit must include (a) Full name and address of applicant or applicants. (b) The location at which the proposed yard/garage sale is to be held. (c) The date or dates upon which the sale will be held. (Ord. #2021-07, September 2021)